

**ENVIRONMENT, LAND ACQUISITION & PLANNING COMMITTEE
OF THE
SUFFOLK COUNTY LEGISLATURE**

Minutes

A regular meeting of the Environment, Land Acquisition & Planning Committee of the Suffolk County Legislature was held at the William H. Rogers Building in the Rose Y. Caracappa Auditorium, Veterans Memorial Highway, Smithtown, New York, on Tuesday, **April 9, 2002** at 3:15 p.m.

MEMBERS PRESENT:

Legislator David Bishop, Chair
Legislator Michael Caracciolo, Vice Chair
Legislator Andrew Crecca
Legislator Ginny Fields
Legislator Jon Cooper

ALSO IN ATTENDANCE:

Legislator Angie Carpenter, Legislative District No. 11
Paul Sabatino II, Counsel to the Legislature
BJ McCartan, Legislative Aide to Presiding Officer Tonna
Barbara LoMoriello, Legislative Aide to Legislator Cooper
Chris Heer, Legislative Aide to Legislator Bishop
Peter Scully, Commissioner, SC Department of Parks
Judy Gordon, SC Department of Parks
Richard Martin, SC Department of Parks
Denise Spezio, SC Department of Parks
Tom Isles, Director of Planning Department
Jim Burke, Deputy Director, Planning Department
Lauretta Fisher, Planning Department
Christine Costigan, Division of Real Estate, Planning Department
Lance Mallamo, SC Vanderbilt Museum
Vito Minei, SC Department of Health Services -- Environment
David Grier, County Attorney's Office
Bill Shannon, SC Department of Public Works
Ed Davida, SC Department of Public Works
John Turner, The Nature Conservancy
Heather Lanza, The Nature Conservancy
John Kaledin, The Nature Conservancy
Jill Lewis, Long Island Pine Barrens Society
Richard Amper, Long Island Pine Barrens Society
Hoot Sherman, Peconic Land Trust
Tim Caufield, Peconic Land Trust
Eric Alexander, Vision Long Island
Laure Nolan, Nominee, Planning Commission
Reed Jarvis, Jr., Nominee, Farmland Committee
H. Ronald Bush, Nominee, Farmland Committee
Peter Freeman, Historical Society of Islip Hamlet
Nancy Porta Libert, Historical Society of Islip Hamlet
Maria Pecorale, West Islip Chamber of Commerce

Jean Freeman, Historical Society of Islip Hamlet
Peter Freeman, Historical Society of Islip Hamlet
Thomas L. Curr, East Islip Historical Society
Nancy Donohue, Sagtikos Manor Historical Society
Lawrence Donohue, Sagtikos Manor Historical Society
George Rider, Bay Shore Chamber of Commerce
Priscilla Hancock, Bay Shore Historical Society
Robert Hancock, Bay Shore Historical Society
Robert Balletta, Bay Shore Historical Society
Beverly Luciano, Bay Shore Garden Club
Sue Shreve, Bay Shore Garden Club
Eugene S. Shreve, Bay Shore Chamber of Commerce
Bob Keeler, Newsday
Emi Endo, Newsday
Other Interested Parties

Minutes Taken By:
Kimberly Castiglione, Legislative Secretary

(The meeting was called to order at 3:15 p.m.)

CHAIRMAN BISHOP:

Will everyone please rise for the salute to the flag led by Legislator Caracciolo.

(Salutation)

Good afternoon, everyone. This is the April 9th meeting of the Environment, Land Acquisition and Planning Committee. We have a very long agenda and this committee typically works until seven or eight o'clock at night, so we are going to try to expedite and focus as best we can.

We have a number of issues that have generated public interest and people wish to speak. One of the issues, Legislator Cooper, one of the issues is the acquisition of Normandy Manor. That issue is tied into policy questions that we will deal with when we discuss the omnibus reform bill. So I think that we unfortunately need to – we cannot take that one out of order because we need to put the cart before the horse and discuss the policy direction that we want to go in when we have appraisals and appraisal reviews that differ. And so I apologize for that because I know that your speakers probably wanted to go first, but that is not going to be – well, we could hear them, but as for the outcome, it is going to be second.

Okay. So why don't we ask the – they were the first cards in from the Town of Huntington, Margo Miles. Anybody who is here to speak on the Normandy Manor acquisition. Who is that? That's you. Okay, so it is just you.

MS. LoMORIELLO:

And Lance Mallamo.

CHAIRMAN BISHOP:

Come on up. Come together. The idea way to do this is to have one person speak for both of you, if possible.

MR. MALLAMO:

Good afternoon, ladies and gentlemen. Lance Mallamo, Executive Director at the Vanderbilt Museum. I guess we are here today to assist with any questions you might have regarding the Normandy Manor acquisition that was authorized in last year's capital program. And as you are aware, there are some problems between the appraisal and the appraisal review. Margo, maybe you can introduce yourself.

MS. MILES:

Sure. I am Margo Miles. I am here representing the Town of Huntington. I work with the Department of Planning and Environment. I share the titles of Senior Environmental Analyst and Coordinator of Open Space Conservation.

I am here to talk just a little bit about the status of the property right now. It is a pending three lot subdivision before the Planning Board. It is among the last in tact larger parcels remaining on the Little Neck Peninsula. There are only about ten remaining vacant parcels that can be developed as single family residential homes on the peninsula. There is only about a handful that could be further subdivided.

It is my understanding that one of the discussion points has been the status of the subdivision. The subdivision is pending completion of SEQRA review by the Planning Board. They have not yet issued a determination of significance. It is my understanding that there may have been some misunderstanding that they have already issued a positive declaration pursuant to SEQRA. That has not happened yet.

CHAIRMAN BISHOP:

Now are you going to stick around for four hours?

MR. MALLAMO:

Well, I am going to stick around on other issues so I will be here. I think we needed to clarify where this sat with the Town of Huntington.

LEGISLATOR COOPER:

I am not sure how up to speed the other members of the committee are on this particular acquisition. Margo or Lance, if you could provide additional details as to why we are where we are today, and the discrepancy between –

MR. MALLAMO:

Well, I will try and get into that, Legislator Cooper, without being specific, because I am not involved in the specific details of the acquisition. Of course that is in -- the Real Estate Department is handling that.

As I know the situation, an appraisal was completed on the property by a licensed appraiser. The appraisal was acceptable for the price. It was agreed upon between the department and the developer who has purchased the property last year. Subsequently that was reviewed in-house by an unlicensed appraisal reviewer, and somewhat lowered. I don't think it was drastically lowered. I think it was lowered somewhat and now the two values are out of whack.

What I can tell you is this is at least the third time, possibly the fourth, that the County has tried to acquire this property to the point of the last one I have is in 1990 the County Legislature did authorize funding and actually I believe went to contract on the property. I don't have the

appraisals from that transaction with me today, which are not significantly lower than we are talking today. I think all of us can read Newsday on March 20th of this year, just two weeks ago there was an article in Newsday that real estate values in Suffolk County have increased 33% in one year, and in the Harborfield School District nearly 40%. This is a very sought after school district. It is a very hot area, it is 45 minutes from Manhattan and a quick commute. Just if we were to use the appraisals I have from 1990 and reflect them to a year later, we wouldn't even be here discussing this, and yet the appraisals I have are actually 12 years old.

We are just trying to see how we are going to move this along, because I think we are in a stalemate. No one seems to know how to handle this. I don't think Normandy Manor is the only property that is going to face this issue, it just happens to be the first one out of the box with the reorganization in the Real Estate Department. We do have for the first time in the history of Normandy Manor, we have a willing seller, and the funds are appropriated, but we just have to like get past this point. I am here to help in any way that I can to make it happen.

MS. MILES:

If I could add to that just briefly also. This is an extremely unique site in the Town of Huntington from a historic standpoint. Not only because of its relation to the Vanderbilt museum, but this is the only assemblage, the two properties together, that were designed by {Warren and Whetmore} in the whole town. They are the designers of Grand Central Station, very significant.

As far as whatever comparables you did receive on the property, I don't know if they were estate values that you received. It would be very difficult to find something quite comparable to this in the Town of Huntington. The other value that is hard to add to this is the value of the landscaping, which is original, was designed by Whitney Warren, the same designer that worked on the Vanderbilt grounds, and much of that is in tact. There are majestic copper beaches and whatnot on the site. The town when it laid out the adjoining subdivision, the Estates of Harbor View, required restrictive covenants to be placed on lots to avoid clearing anywhere near the boundary of this property. The town has been very sensitive in its handling of this property as well.

The only other thing I did want to add is that there was an open house at the property about three weeks ago, and there has been a great flurry of activity in the Planning Department. It is being offered right now at 1.59 million

LEGISLATOR COOPER:

They have had a lot of people come by the home. I don't think that this will last on the market too much longer. Right now the seller remains a willing seller even though he understands that he could make a lot more money most likely if he proceeded with a subdivision and developed lots on the site. He doesn't really want to do that. He is trying to do what is best for the local community, but he is becoming increasingly frustrated to say the least, and his patience is running out. So, we really have to find some way to get beyond this glitch so we can close on this deal, or else we are going to lose out on this property that the County has tried for what, 20 years now, Lance, to acquire. We are finally there, and if it slips through our fingers, it will be a terrible loss.

CHAIRMAN BISHOP:

Legislator Fields.

LEGISLATOR FIELDS:

I think this might be more for Planning or Real Estate, but do we know what our appraiser – the reasons our appraiser felt that it should be that much lower?

CHAIRMAN BISHOP:

You've asked the question, they have heard it. When they come up later hopefully they will be prepared to provide an answer at that time. Thank you very much.

MR. MALLAMO:

Thank you, and I will be staying.

CHAIRMAN BISHOP:

Yes. Good.

MR. MALLAMO:

Legislator Bishop, I would also like to speak in support of Sagtikos Manor. I don't know if this is the proper opportunity to do that. I filled a card out for both segments, so.

CHAIRMAN BISHOP:

Right. I am calling up the Sagtikos Manor people next. I see the large contingent from the 11th Legislative District, friends from Brightwaters and Bay Shore and West Islip. Do you have leadership, do you have a spokesman? Come on up, and anybody else who wishes to speak. Well, we have just cut the number from nine to three or four. And I know each one is going to add unique and different facts to the dialogue. Welcome.

MS. DONOHUE:

My name is Nancy Donohue. I am President of the Sagtikos Manor Historical Society and also chairing a committee to preserve Sagtikos Manor. I am very pleased today to have representatives from West Islip, Bay Shore, Brightwaters, Oakdale, Islip, East Islip, garden clubs, historical societies, a member of the DAR.

We really are concerned about preserving this property. It is a unique property. George Washington did sleep there, it is documented. But it is a treasure that we must preserve. I will answer any questions you have. I don't want to take up a great deal of your time. The house should be preserved as such with its furnishings. We are really concerned about it. It is not even occupied at this particular moment and we are concerned about its security also.

CHAIRMAN BISHOP:

Does anybody else wish to –

MR. RIDER:

David, excuse me. Legislator Bishop. My name is George Rider. I am a lifelong resident of the Bay Shore/Brightwaters area. I am here representing the Bay Shore/Brightwaters Chamber of Commerce, the Bay Shore Business Improvement District, and the Redevelopment Committee of the Summit Council of Bay Shore. I am on the boards of all three, and I am speaking very much in favor of this proposition.

If you will indulge me for a second, collectively we have a wonderful opportunity to demonstrate that public/private partnerships work. This is a very good way of doing that. Sagtikos Manor, the Thompson and Gardiner families are very important parts of our history. To ignore this opportunity to preserve Sagtikos Manor and memorialize these families for generations present

and future to enjoy would be wrong. In this day and age, history as taught in many of our institutions of learning has changed the importance from the requisite – from a requisite course relegated in many instances to electives. It is a very bad trend. Sagtikos's proximity to Gardiner Park and the Great South Bay offers wonderful opportunities for our children and grandchildren to study nature, wildlife and early history as steeped in the law of the manor, its buildings and its furniture.

From the standpoint of tourism, a very important part of what we are doing, all of us here on the south shore, what a wonderful stop on any excursion to Long Island. As Sagtikos's program is developed, just think of how many adults in addition to the schoolchildren will take advantage of this wonderful historic site.

I urge you to vote affirmatively on this proposition so that you, the Legislators, can take your rightful place in acknowledging the importance of preserving our past. I have got a handout which I will get up there if I can. It is a piece that I wrote for the Islip Bulletin.

CHAIRMAN BISHOP:

Thank you.

MS. DONOHUE:

I don't know whether you would like to know the names of the people that are here representing the different organizations.

CHAIRMAN BISHOP:

I think we would like to know the names of the organizations.

MS. DONOHUE:

Okay. We have the Islip Historical Society, we have the Bay Shore Historical Society. As George has mentioned, the organizations he is representing. Sagtikos Manor Historical Society, the Bay Shore Chamber of Commerce, the West Islip Chamber of Commerce, the West Islip Bicentennial Committee, which is a committee that was formed to preserve the history of the area back in '76. We have the Bay Shore Garden Club, the East Islip Historical Society, and I think I have hit most of them.

CHAIRMAN BISHOP:

The request for County action, is it limited to today's vote or is there an ongoing commitment that you are seeking from the County towards this property?

MS. DONOHUE:

I think we would like the support of the County in preserving the property ongoing. It would be difficult as individual groups to do it without a base. The Sagtikos Manor Historical Society has supported many of the things that have occurred at Sagtikos Manor. We have done painting, we have done repair, we have done gardening, and I know of groups, garden groups, that can't wait to get there to help preserve the gardens or to restore the gardens. We put in a great deal of money over the years to help preserve it, and I am sure that we will continue to do it because we do feel it is such an integral part of our local history.

LEGISLATOR CARPENTER:

Legislator Bishop, if I could. I just want to respond to that. I think this treasure of Suffolk County, and I know we have used that term to describe the Vanderbilt Museum and other entities within the County, but this truly is a treasure historically and for its beauty. It is a ten acre parcel right across from Gardiner Park, another County facility, with a cemetery, a walled garden, and it is really a magnificent parcel that certainly warrants preservation. It is on the National Historic Register and has been for a number of years.

I think that the County certainly can be catalysts in trying to pull the groups together. We have done a lot of that already. The fact that this group is existing and has been meeting for a number of months, has reached out to {SPLEA}, and has participation by our County Historian, Lance Mallamo, our County Parks Commissioner, Commissioner Scully and his staff. We have already met with the New York State Office of Parks and Historic Preservation. They are keenly interested in seeing this parcel preserved and have demonstrated a willingness to assist us in going forward with the necessary grants that we would need to do the renovations that are necessary and preserve it.

CHAIRMAN BISHOP:

So the commitment in this resolution is to purchase. Okay. There is no commitment beyond that.

LEGISLATOR CARPENTER:

Right.

CHAIRMAN BISHOP:

Although, as stated, it is obvious that I am sure you will be making the case for a greater commitment.

LEGISLATOR CARPENTER:

Well, we will do it on a case by case basis.

CHAIRMAN BISHOP:

Are there any other questions? I'm sorry.

AUDIENCE MEMBER:

Having been here for some of the budget stuff, we see that the County does not have a printing press at will, but there are other things as important, I am sure you will agree, and everything – although money is often the bottom line.

You are impressed with the historical pedigree of Sagtikos Manor because it stood for a very, very long time as a link to our past, but I would like to suggest the psychological importance of preserving our past. That no community and no municipality, no state, or nation, can really define itself, identify itself, really, or move forward with perspective and wisdom, without having some adequate link to its own past. We have written histories, but that does not take the place of seeing and touching and experiencing the real thing. There is nothing that is going to be a substitute for a living Sagtikos Manor.

I just would further suggest that we have not been very zealous or perhaps adequately zealous in our commitment to historical preservation. Just saying that, we would not want to lose Sagtikos Manor.

CHAIRMAN BISHOP:

Thank you. That was very eloquent. Sir?

MR. FREEMAN:

Yes, I am Peter Freeman, representing the Historical Society of Islip Hamlet. And Sagtikos Manor is a significant historical site, both in the County, State and national level. And in light of recent developments, such as the dispute over the ownership of the contents, the theft of some of the artifacts and of the potential sale to developers, we believe the County should take action before other unforeseen dangers destroy this historical treasure.

It appears quite evident that Mr. Gardiner wishes to liquidate this property, and that is why we, the Historical Society of Islip, recommend that you strong consider this resolution to purchase the Sagtikos Manor and its contents in all effort to preserve a valuable piece of Long Island antiquity for ourselves and for future generations. Because we have to remember that it is our obligation to remember the past if we are to secure the future. Thank you.

CHAIRMAN BISHOP:

Everybody has a silver tongue in your district.

LEGISLATOR CARPENTER:

We try. And you know why? They speak from the heart and I think that that really says it well. I know that Commissioner Scully is here and Lance. Perhaps you might want to hear from them.

CHAIRMAN BISHOP:

Thank you.

LEGISLATOR CARPENTER:

Thank you for being so hospitable, too. I appreciate it.

CHAIRMAN BISHOP:

I will take this resolution out of order if it is all right with the committee and then we can act on it. I would make a motion to take it out of order and put it before us. Second by Legislator Caracciolo. All in favor? Opposed? The resolution is now before us.

1314 Approving acquisition under Suffolk County Multifaceted Land Preservation Program (property known as Sagtikos Manor) Town of Islip. Assigned to Environment, Land Acquisition & Planning. (Carpenter)

It being before us, I would ask that the representative of the Executive Branch who are here who have information regarding this come forward at this time. Thank you all.

All right. Lance, we know what you are going to say. Peter. Commissioner of Parks, Director of Planning, Director of Real Estate, welcome all. I assume you have been working with Legislator Carpenter and these organizations on this?

COMM. SCULLY:

Yes. I will defer to Mr. Isles and Ms. Costigan with respect to the ongoing efforts to acquire, but we have been working with Legislator Carpenter and representatives of a host of community groups and New York State Parks and some of the local New York State officials on trying to map out a future for the property because acquiring, I think, is a very, very important first step. There is no question of its significance, as Lance will tell you. But making provision for management of it in the future is just as important and acknowledging that that is going to require resources is something that Legislator Carpenter and I have insisted on from the very first day. Towards that

end, Lance was good enough to volunteer to coordinate a group that has been working independently to map out a management plan for the property.

I know that you have a very, very long agenda today, but it is a very unique situation in that the structure itself is historically significant beyond question. It is also filled with furnishings that are of equal value, and I don't know that there will be another opportunity in the history of the County to preserve a piece of property of this significance.

To get into the process of management, I think that Lance's committee met once and is scheduled and next week.

MR. MALLAMO:

Friday.

COMM. SCULLY:

Friday of this week. But we are mindful of the need to bring all parties together and have a multi-governmental approach to management of the property and make sure that we have resources to do that.

CHAIRMAN BISHOP:

So is there an exact plan for a management ongoing after we adopt this, and does it involve County resources?

COMM. SCULLY:

I will defer to Lance and then add if I feel it is important for me to do that.

MR. MALLAMO:

Thank you, Peter. As Commissioner Scully indicated, I have been working with members of the community and his staff in their Division of Historic Services, Rich Martin, to develop a management plan for the property which I had hoped we would have before you today. I really wasn't even aware that this resolution was coming so quickly, so I am just back from a trip to California as of yesterday, and we had scheduled a meeting on Friday to hopefully finish this up.

This is property of national significance without question. I would be hard pressed to name a more important property in the County. This has been on my dream list for years. The happenstance that Gardiner County Park, which was the former Gardiner holdings right across the street and in County ownership, only makes it more logical that we should pursue this.

In fact, interestingly enough, as a little sidebar, on your agenda today, the Detmer Farm property is the ancestral home of Jonathan Thompson who later moved Sagtikos Manor. So it is really quite amazing the connections that we have here.

What we are trying to do with this plan is to look at the house and property from a perspective of what it is going to take to put it in usable condition for the County and we did have an initial walk-through, and I am happy to report it is in remarkable condition. It has been relatively well maintained over the years. Has many features like a new wood shingle roof, which would be extremely costly for the County to put on. Many of the infrastructure of the house is original and does not need replacement such we have done at Deepwells or Meadowcroft. We will outline in that the costs associated with it, the resources that would be available to make it happen. I have pledged the resources of the Vanderbilt, our {curatorial} staff to help out in any way that we can on a temporary basis, and we will have all that earmarked.

I think what is important here is that we have a track record. The Parks Department in Suffolk County probably has the best track record of working with historical properties. I will match it to any county in New York State, and I think we have proven to you over the years we don't come to the County all of the time looking for the resources to make this happen. They have been very good at developing those resources on their own, and we are looking to do that here.

CHAIRMAN BISHOP:

Are we going to run this? That is what I am trying to get at. Is this going to be a Vanderbilt Museum?

MR. MALLAMO:

I think what you are going to see is a public/private partnership. That is what we are hoping will develop. I think you have evidence of the room of the capabilities of that. In fact, I can't think of another County property we have had so many partners to work with, both on the property management side and the landscape side. Usually we are out there developing those partnerships to make it happen. In this case, they are in place and ready to go.

CHAIRMAN BISHOP:

What do you mean by partnership? Do you mean the County's money and they are going to operate it?

MR. MALLAMO:

Well, I think we are going to see that there will be – the most important feature to me is the operating labor, the volunteers that are going to staff the house and keep it open to the public. That is where the real drain is. The real drain is not in the restoration costs. I think that any restoration costs we see will easily get matching grants towards anywhere from 50 to 80% for that. We may even get it towards acquisition costs if we pursue that in a different program. But I think we will see supplemental costs provided from local groups to help with the landscaping and help with the interior restoration and exterior. We certainly have a track record in that regard with Deepwells and Meadowcroft and many other properties in Suffolk County Parks. I think you have 200 and something historic buildings and how many full-time employees dedicated.

CHAIRMAN BISHOP:

If we adopt the resolution today, however, we are not adopting a management plan. We are simply purchasing the property and protecting it from destruction. Is that correct?

COMM. SCULLY:

We would be authorizing an acquisition and I would have to defer to Mr. Isles and Ms. Costigan on the status of that effort.

CHAIRMAN BISHOP:

The management plan would be a separate resolution at a later date, is that correct?

COMM. SCULLY:

You could deal with that issue later, that's correct.

CHAIRMAN BISHOP:

Are we going to deal with that issue by resolution later? I can assure you that there is a very different dynamic here if we are authorizing or committing the County to an unseen management plan as opposed to committing the County to preserving the property.

COMM. SCULLY:

I don't think you – we hadn't contemplated bringing a management plan back here, but if it is something that you would like to see, I don't think there is a reason why we wouldn't.

CHAIRMAN BISHOP:

It involves significant County resources, which, if I am reading between or hearing between the lines, it would seem to be –

MR. MALLAMO:

I think the intent of the management plan is to identify how to keep the cost to the County as minimal as possible to make this property succeed for the future.

CHAIRMAN BISHOP:

Let me just remind you of the policy direction that this County has taken on numerous land purchases in many different areas. We are willing to spend the resources to preserve land, but we do not want to be binded to the maintenance of and the ongoing costs associated with it. So, for example, on Greenways, for something as simple as soccer fields we require a local partner who pays for the management and maintenance of the property, not the County taxpayer. This is vastly different, and that is why I think you would – that is why, I assume I speak for the committee, that we would want to see another resolution with regard to a management plan at a later date, assuming that we approve this.

MR. MALLAMO:

Might I suggest we would bring something like that to the Parks Committee.

CHAIRMAN BISHOP:

Yeah, the Parks Committee, you don't have to bring it – if you find that more hospitable, sure.

LEGISLATOR FIELDS:

I think that there are examples in the County of County owned buildings on parkland where another entity has managed it, and a perfect example is Great South Bay Autobahn in Sayville, who have taken on a piece of property and spent monies and time and energy taking care of the property where it costs the County little or nothing. I know the Smithers property they are working on a plan and we have Deepwells, and there are many that not necessarily even have to go through the County for a resolution, do they, for a group to take it over and manage it?

COMM. SCULLY:

We have a stewardship program and an adopt-a-park program, neither of which – they have been authorized by resolution but the individual agreements don't come back here. But I think that the concerns that the Chairman expresses are real, and they are concerns that Legislator Carpenter and I have brought to the table at each and every meeting that we have had with the community groups who are interested in seeing this initiative move forward, because the last thing we want to have is a property required without the resources in place to improve and management it. So, you know, we share your concern and we are making sure that those issues are addressed up-front and in a timely manner.

LEGISLATOR FIELDS:

But generally you don't have an acquisition come forward with nine or ten different groups. This is a very unique situation.

COMM. SCULLY:

This is a very unique situation.

LEGISLATOR CARPENTER:

I think, too, given the location, if I could, Mr. Chairman, the location of the property and seeing the groundswell support of the community reminds me of something that is in close proximity, and that is the Fire Island Lighthouse and the Preservation Society that was formed there to preserve and really enhance that property that was on the road to destruction. Certainly we don't want to see that happen with Sagtikos, and I think the community, again, stands ready to make sure that we can preserve this parcel for future generations.

CHAIRMAN BISHOP:

Yes.

LEGISLATOR CARACCILOLO:

One of the advantages, and maybe in view of what I am going to say disadvantages of being on this horseshoe for over a decade, is I have been here and observed and listened to many discussions about County-owned facilities and the maintenance thereof, and the County does not have a stellar record when it comes to maintaining historic facilities. It took us a number of years, and under your leadership, Lance, we are finally get around to taking care of those properties as they should be.

That said, it would seem to me that perhaps the cart is being put before the horse. If we have this tremendous community support, which was evident from the four eloquent speakers we heard from, how difficult and how much time needs to be consumed to sit down with these interested parties and put an agreement together? Why should taxpayers alone foot the tab and then find out at a later date that maybe some of what is necessary cannot be carried out by those who are advocating for its purchase. We each have a responsibility to our respective constituents throughout the County to make sure that we not only purchase to preserve this property, but that it is properly maintained for future generations.

We look at Vanderbilt. In the last five years alone the County has sunk over 10, \$15 million into restoring that building, which was for many years in neglect, and I have been a prime proponent of doing that. But that was a gift, remember, that was a gift and it came with an endowment, so there are distinctions.

That said, what I would now like to turn to is to the Division of Real Estate and Mr. Isles to ascertain has an appraisal – do we have an appraisal?

MR. ISLES:

Yes, we do.

LEGISLATOR CARACCILOLO:

Are we at liberty to discuss that appraisal in public or do we have to go into executive session?

MR. ISLES:

I would rather not discuss it in public at this point.

LEGISLATOR CARACCILOLO:

Okay.

MR. ISLES:

But we do have an appraisal, we have an appraisal review that supports the appraisal. The Planning Department has reviewed this matter carefully. We would echo what has been spoken already in terms of the historical importance of this, and in fact today is an historic day for historic properties with both Normandy and the Sagtikos Manor properties before you.

So in answer to your question, we do have the appraisal. We have an appraisal review that supports that. We have not commenced a formal negotiation at this point with the owner. We have that contact. There is a willing seller, a very interested seller in this case, but any details I would prefer to do in an executive session or privately.

LEGISLATOR CARACCILOLO:

Okay. So since the resolution does quantify an amount, you are aware of that?

MR. ISLES:

Yeah, it does, it gives a cap. Yes, it does.

LEGISLATOR CARACCILOLO:

Doesn't that in essence tip the County's hand as to what the County is willing – is that what we should be doing when we adopt resolutions like this?

MR. ISLES:

Is it something we should be doing? Probably, because in order to appropriate the monies to do an acquisition we have to come up with some figure for that. It still does give us latitude in the negotiation process because that figure includes all the costs associated with getting the appraisal, survey, title insurance and so forth. So, we provide that to the sponsor of the bill for backup information.

In terms of – obviously that is public information, and the property can see that as anyone else can. We will negotiate based upon the appraiser we have, the limitations of that appraisal, and that is something here again that we would consider to be confidential or shared with the committee members only.

LEGISLATOR CARACCILOLO:

So in terms of the information contained in the appraisal, is there anything not contained in this resolution that we should be aware of, or are we just writing a blank check?

MR. ISLES:

I am not sure if I understand the question. The blank check would be any appropriation or expenditure by the administration would be limited by the resolution, the \$1.7 million. We could not spend anything more than that for the total cost, which would include soft costs as I mentioned earlier. So, we would be constrained by that.

I will also point out, too, that as the Chairman has referred to earlier with Normandy Manor, we are in the process of considering, you are considering procedural changes or guidelines for the Real Estate Division. This is one that would be subject to that. And what the joint Executive/Legislative panel has recommended is consideration by a legislative committee, and most logically this committee, of acquisitions above a million dollars, that the committee would be made aware of the details of the transaction. So that would then authorize us to go out and proceed with formal negotiations.

LEGISLATOR CARACCILO:

But are you saying we are taking that action today or by adoption of this resolution, because it is in excess of one million dollars. My sense is that we are giving you a blank check. I don't know what is in that appraisal report. I would like to see that. Given what has transpired in this County over the last 12 months, I am not comfortable approving any acquisitions until I see appraisals.

MR. ISLES:

That's fine, and I think that is something that the committee has talked about, that for acquisitions above a million dollars. Here again, this is one that there was a planning steps resolution going back to the fall. There had been considerable effort put into this up until this point in time and we are in a bit of a transition in the process at this time.

CHAIRMAN BISHOP:

You can get him the appraisal before Tuesday?

LEGISLATOR CARACCILO:

Well, I think every member should look at it, but I certainly would like to see the appraisal before a vote on Tuesday.

MR. ISLES:

We could do that, sure.

LEGISLATOR CARACCILO:

Okay.

CHAIRMAN BISHOP:

There is a summary page?

MR. ISLES:

Yes, there is a summary provided in every appraisal that is signed by the appraiser.

CHAIRMAN BISHOP:

I am sure that will tell the story. Are there any other questions?

LEGISLATOR FIELDS:

Can I make a motion to approve?

CHAIRMAN BISHOP:

Legislator Fields is the representative of the Town of Islip who is on this committee.

LEGISLATOR FIELDS:

Also a former resident of Bay Shore, and I know this property from when I was a little girl and it is certainly worthy of making a definite motion to approve.

LEGISLATOR CRECCA:

If I can make the second, Mr. Chairman, being a former resident of West Islip, and the Sagtikos Manor being the first historic site that I visited as a youth with West Islip School District, it gives me great honor to second the motion to approve.

CHAIRMAN BISHOP:

Okay. A motion has been made and seconded. Does anybody wish to be heard on it? I would just note that last year I read about the historic trail long 25A, and I was contemplating whether

we could do it along 27A. And if you go from the County line west you realize that the vacation home of one of my heroes, Al Smith, gone. The baseball field where Babe Ruth and Lou Gehrig played against a Lindenhurst community team for beer, that's gone. The hotel, which was a national tourist destination on Argyle Lake and was home to the first professional Negro baseball team, gone. And then we reach Sagtikos Manor. Thank goodness that we are in time to preserve that.

I certainly commend Legislator Carpenter and all the community groups for having the foresight and vision to bring this to us with the caveat that I am sure that the County is going to be very prudent and looking for significant partnership arrangement in the ongoing commitment to maintain it.

So there has been a motion made and seconded. All in favor? Opposed? The resolution is approved. **(Vote: 5/0/0/0)**. It goes to the full Legislature next Tuesday.

LEGISLATOR CARPENTER:

Thank you very much, Mr. Chairman and the committee, for your support.

CHAIRMAN BISHOP:

All right. Then we have folks who are here for appointments to the Farmland Committee or the Planning Board – Suffolk County Planning Commission. After we handle those matters we will go to the reform bill. So who is here for consideration of appointment? Come forward, appointees, and they we are going to dispose of you in five minutes, we hope. If you are up for an appointment for the Farmland Committee, judging from your attire –

LEGISLATOR CRECCA:

Do they have pitchforks?

CHAIRMAN BISHOP:

Modern farmers in a tie. If you want to go left to right, just please state your names.

MR. BUSH:

Ronald Bush.

MR. JARVIS:

Reed Jarvis.

MR. ALEXANDER:

Eric Alexander.

MS. NOLAN:

Laure Nolan.

CHAIRMAN BISHOP:

Who is a reappointment? Laure Nolan. Does anybody have any questions for Ms. Nolan? Her resume is here, she is a reappointment. Are you a member of the Town Planning Board currently?

MS. NOLAN:

No, I am not.

CHAIRMAN BISHOP:

Our Smart Growth Committee appointee, did you provide a resume?

MR. ALEXANDER:

Yes, I submitted it.

CHAIRMAN BISHOP:

Does anybody have any questions?

LEGISLATOR FIELDS:

Do you have a copy of it?

MR. ALEXANDER:

Not right on me. I'm sorry.

CHAIRMAN BISHOP:

We must have it. We have it. Let's move forward.

MR. ALEXANDER:

Eric Alexander. I have Program Director know as the Vision of Long Island. I have been working for the last five years with Sustainable Long Island and other groups. We have been active in smart growth legislation on the Statewide level. We were working with Steve Jones on the initial smart growth policy plan. I have been very active in trying to advance smart growth principals in Huntington and elsewhere.

I have also been involved in a number of community visioning projects in the Mastic/Shirley community, and most recently with the William Floyd Community Summit as well as an upcoming one in Middle Island. So I have been working with architects and designers to try and advance smart growth principles and try to advance mixed use planning on a number of levels for quite some time. I really made a personal commitment to Steve Jones and then further to Tom Isles to assist in the implementation of the policy plan and I am very excited about the direction of it, so I want to honor that commitment.

CHAIRMAN BISHOP:

Thank you. Are there any questions? Farmland fellows.

MR. JARVIS:

Good afternoon. My name is Reed Jarvis. I am currently a member of the Southold Town Farmland Preservation Committee. I have been a member for about four years. I am on the Board of Directors of the Long Island Farm Bureau. I have 12 years as vineyard manager with Pindar Vineyards as in the grape industry. My family owns and operates a potato farm, a large potato farm out in Cutchogue. I am a resident of Cutchogue, graduated high school, Suffolk Community College. I understand the process, I understand the importance of it all, and I am willing to put in whatever time is necessary to be a member of good standing on the committee.

CHAIRMAN BISHOP:

Thank you. Mr. Bush.

MR. BUSH:

I am a retired real estate broker and still have my real estate broker's license, and I am a certified general real estate appraiser. My family farmed. We had at one time over 300 head of dairy cattle here on the Island. The farms are gone. As you know, there is no more dairy cattle

on Long Island. I am on the County Farm Advisory Board, Bellport Historical Society, and I am very active – I have my own museum dedicated to Long Island agriculture. I have sold various properties to the County as a broker, the Robinson Duck Farm, the headwaters of Carmens River, along with the {Shuester} Family and other properties. I am just distressed of what is happening on the South Fork. On the North Fork I want to do my best to preserve a way of life that is rapidly disappearing, and I will do whatever I can to do that.

CHAIRMAN BISHOP:

Well, it sounds like we have all excellent nominees and renominations here. Thank you all. There are no questions from the committee. We'll take your resolutions out of order and allow you to leave. I just have to find the numbers on them. Does anybody know their number? 1348. Okay. Motion to take 1348 out of order, second by Legislator Crecca. It is before us.

1348 Approving the appointment of Eric Alexander as a member of the Suffolk County Smart Growth Committee representing a Smart Growth Principles Organization. Assigned to Environment, Land Acquisition & Planning. (Co. Exec.)

All in favor? Opposed? 1348 is approved. **(Vote: 5/0/0/0)**

Motion to take 1237 out of order by myself, second by Legislator Fields. All in favor? Opposed? It is now before us.

1237 Approving the reappointment of Laure C. Nolan as a member of the Suffolk County Planning Commission, Representing a Village over 5,000 population. Assigned to Environment, Land Acquisition & Planning. (Co. Exec.)

Motion by Legislator Cooper, second by Legislator Caracciolo. All in favor? Opposed? It is approved. **(Vote: 5/0/0/0)**

Motion to take 1238 out of order by myself, second by Legislator Fields. All in favor? Opposed? The resolution is now before us.

1238 Approving the appointment of Reed W. Jarvis, Jr. as a member of the Suffolk County Farmland Committee. Assigned to Environment, Land Acquisition & Planning. (Co. Exec.)

Motion to approve by Legislator Caracciolo, second by Legislator Crecca. All in favor? Opposed? 1238 is approved. **(Vote: 5/0/0/0)**

Motion to take 1239 out of order by myself, second by Legislator Field. All in favor? Opposed? 1239 is now before us.

1239 Approving the appointment of Ronald Bush as a member of the Suffolk County Farmland Committee. Assigned to Environment, Land Acquisition & Planning. (Co. Exec.)

Motion to approve by Legislator Caracciolo, second by Legislator Crecca. All in favor? Opposed? It is approved. **(Vote: 5/0/0/0).**

Thank you all very much for coming and for your patience. On to reform. The Nature Conservancy has attorneys here to speak on a specific issue. I know they have to catch a flight.

We will take them next.

The specific issue is the use of the tax deduction.

MR. TURNER:

It has to do with, I think, resolutions 1382 and 1385, David, if I recall correctly.

CHAIRMAN BISHOP:

Okay.

MR. TURNER:

Two seconds of prefatory remarks. First of all, I am John Turner, Director of Conservation Programs for the Nature Conservancy on Long Island. There had been particular interest regarding the issue about appraised value and bargain sales at the last ELAP Committee meeting, and we agreed that we would bring down Jonathan Kaledin, who is the State Counsel to the Nature Conservancy in the State of New York. Jonathan kindly agreed to accept our invitation to appear before the committee to provide some more detailed information about the value and use of bargain sales in the State of New York and –

CHAIRMAN BISHOP:

I just want to get more – did one of these resolutions prohibit the use of a seller's appraisal, is that –

MR. SABATINO:

One of the recommendations was not to use a seller's appraisal for a transaction. That was one issue. Another one – I think the one that --

CHAIRMAN BISHOP:

And we deferred action on that. We didn't reject it and we didn't accept it.

MR. SABATINO:

On that one you accepted it. There was a different issue which is the issue of whether or not the County officials should sign-off on the charitable donation clause.

CHAIRMAN BISHOP:

Right. I thought we were speaking entirely within that context.

MR. SABATINO:

No, it was two – I mean, they are related, but the first one was accepted, which is you don't use a seller's appraisal.

CHAIRMAN BISHOP:

Okay. It is the signing-off. The reason we are here is because there was a notion that we would prohibit the signing-off by the County on the appraisal – on the appraised value arrived at by the seller for purposes of charitable donation. Is that –

MR. SABATINO:

The actual recommendation that was made by the Commission is that no bargain sale transaction should be done except when the agreed upon purchase price is less than the County's approved appraised value.

CHAIRMAN BISHOP:

Which would effectively prohibit the use of the tax deduction as an incentive.

MR. SABATINO:

No, it wouldn't. It would be consistent with the tax deduction incentive because if you have got appraised value at \$5 million and a contract is at \$5 million, but the purchase payment under the \$5 million contract is going to be \$3 million, then the tax deduction would be \$2 million. But the Commission's recommendation was that that transaction you could do. The transaction this Commission recommendation discourages is where that same situation, you've got a contract of \$5 million, you have an appraisal at \$5 million, and you have a County payment at \$5 million, and then the seller tries to take a charitable deduction for \$2 million above the \$5 million. That is what this recommendation would prohibit.

CHAIRMAN BISHOP:

Right. Okay.

MR. KALIEDIN:

Good afternoon. I am Jonathan Kaledin, here with my colleagues and members of the Peconic Land Trust, too, to address this issue. I also wanted to, if I could very quickly, I have read the report that has been prepared, and you know, just a 30 second background. I have been the Counsel for the Nature Conservancy here in New York for seven years. Prior to that, practiced for approximately 12 or 13 years in the public and private sectors in the real estate and environmental arena.

But during the seven years I have been with the Conservancy, I have done a significant amount of work with the County's legal department and Real Estate Department on cooperative transactions and partnership transactions. And really I applaud and admire tremendously the County's efforts in the land conservation arena.

Just yesterday, a very short story. I was with the Inspector General for the New York City Watershed Program in the Attorney General's Office, and he expressed to me the fact that the Putnam County Executive was looking to develop a countywide program there for land conservation. I see this around the State fairly frequently. I always, almost always, use Suffolk County as an example of a County that is doing extremely effective work in this arena.

But quickly, and I am sorry, I have got to run at 4:30. I know you all know that, too. If I could comment on two of the proposals, the proposed resolutions, and one does deal with the bargain sale. The one I wanted to address before that, though, was the resolution dealing with the proposal that the County Real Estate Department, the County essentially, be limited in terms of paying for property, in terms of not exceeding approved appraised value for an acquisition. It is a limitation that I know a number of government entities grapple with and that land conservation organizations with non-profit status, like the Nature Conservancy and the Peconic Land Trust grapple with, I would urge the County to avoid adopting a process that locks it in as far as, you know, not ever being able to exceed approved appraised value.

CHAIRMAN BISHOP:

We are told – let's just, you know, to cut to the quick. We are told that if we were to pay more than appraised value that we are giving a gift of public funds. Where in the law can we find an

exception to that rule?

MR. KALEDIN:

Well, you know, it is a terrific question. I know that the law deals with, and there is case law on the issue and I see it in the report, dealing with the principles, the municipalities must receive fair and adequate consideration when selling property, you know, but the report also says conversely the County may not pay more than fair and adequate consideration when acquiring properties.

I am just not sure, frankly, that that is an accurate statement. I know that there have been municipalities I have dealt with in the past 24 months around New York State, that have a more than fair market value for property, and I know that the State itself, through what it calls its administrative adjustment process, which we, Heather my colleague here, attaches Exhibit A to our letter to you folks. It is the process that the State actually in the circumstances it feels it is appropriate does actually pay more than appraised fair market value for property.

CHAIRMAN BISHOP:

So they pay more than any appraisal supports.

MR. KALEDIN:

Yes. What they do is the State – and it is the approach that I would urge the County to look at in terms of perhaps adopting as its own process. You would need to work it into something that works for the County. But the State, I believe, has a very well thought out process through which it makes a well documented record as to why, because the property is either worth a lot or there are unique circumstances, why it is willing to pay more than appraised fair market value for the property.

CHAIRMAN BISHOP:

Is there any five or ten percent rule? That has been thrown around.

MR. KALEDIN:

Well, you know, I know it has. The ten percent rule is a rule that applies to the Nature Conservancy and not-for-profit organizations, and it emanates from federal tax law. What the ten percent rule – there are private benefit issues that attach to public charities, which under the internal revenue code is what the Nature Conservancy, the Peconic Land Trust, the Group for the South Fork are. We are public charities and we have 501 C3 tax exempt status. In order to retain that status, which means we don't pay federal income taxes, and just as importantly, it means that contributions to us are tax deductible by the people who make them, in order to retain that status we have to be very careful with how we use our assets.

So the Nature Conservancy, actually, and other land trusts, have essentially recognizing that appraisals are – follow certain guidelines, follow certain principles, but are – have a certain degree of subjectivity to them, too, in terms of what a particular appraiser will come up with with a property.

The Nature Conservancy feels comfortable in essentially applying what is called the ten percent rule to appraisals that it gets for its acquisitions of properties, okay. We feel comfortable given that no one can define to the dollar what an appraised value for a property is. We feel comfortable giving, have that wiggle room in terms of appraised value, in terms of what we will pay above an appraisal for a property.

CHAIRMAN BISHOP:

So that is a rule of the organization.

MR. KALEDIN:

Yes, and it is a rule that as I say applies to non-profit organizations and –

CHAIRMAN BISHOP:

It is used throughout the non-profit –

MR. KALEDIN:

Right. It is used throughout the non-profit world because of the internal revenue code restrictions that apply to the non-profit world but do not apply to governmental entities.

CHAIRMAN BISHOP:

There is no five percent rule that you are –

MR. KALEDIN:

No, no.

CHAIRMAN BISHOP:

It is a ten percent rule, it is not-for-profits, and it comes from the IRS code.

MR. KALEDIN:

Exactly. And again, it is not a rule that is written into the code, but it is a rule that, again, we feel comfortable if we had to defend an acquisition before the Internal Revenue Service, we'd feel comfortable saying, look, this acquisition was within ten percent of appraised value, and that means that there is no private benefit issue for us associated with its acquisition.

CHAIRMAN BISHOP:

Okay.

MR. KALEDIN:

If you would like, I will move on to the bargain sale.

CHAIRMAN BISHOP:

Yes, move on to the bargain sale, and then we will do questions.

MR. KALEDIN:

The issues involving bargain sales, again, bargain sales, you know, are not to be confused with bargain and sale deeds here in New York. It is confusing because here in New York you have bargain and sale deeds, which are deeds through which a conveyance and through which certain covenants and warranties are – representations are made from buyer – from seller to buyer. A bargain sale is a situation where the internal revenue code is, again, at stake. It deals with federal income taxes, and it is a situation where it is a routine part of charitable contributions established under the internal revenue code. I mean, bargain sales can occur with any sort of sale of property, real property or personal property, art work, whatever, to tax exempt non-profit organizations holding 501 C3 status. And so we are talking about the sale of, in terms of real estate, we are talking about the sale of property where the seller has the intent based on the seller's appraisal of property, to mix a sale with a partial donation.

Now, in terms of what's been proposed as far as the resolution and the limitation on bargain sales to situations where the sale, the acquisition, is by the County and below then the County's

appraised value, to use Counsel Sabatino's example where you have got a \$5 million appraisal but the seller agrees to sell it for \$3 million. Again, if you look, one of the handouts I have given you today – luckily I don't have to explain that calculus equation to you across the top – but these are the internal revenue code regulations dealing with bargain sales. And what I have done is – what I want to stress, and I really think it is the critical thing to not about bargain sales, is that bargain sales are events and situations that create a relationship between the seller, you know, who is a donor in this situation, it has got to be someone who is making a donation to a public charity and thus taking a federal income tax deduction as a result, but it establishes a relationship between that person and the Internal Revenue Service, the federal government, okay. It really has.

As you can see through the regs, if you read them carefully, and I will walk through what I think are the pertinent parts with you, it has relatively little to do with the donee organization, whether it is the Nature Conservancy or whether it is the State of New York or whether –

CHAIRMAN BISHOP:

So the point is we have no liability. If the seller wants to maintain that it is worth \$7 million when our appraisal is five million, it is no skin off our apple.

MR. KALIEDIN:

Yes, that is exactly right. And the internal revenue code regulations make that quite clear, okay. The first few pages, you know, pages one through three of what I have handed out, you'll see page three. And I am looking at this, everyone, just to reiterate. Page three discusses – the section on deductions in excess of \$5,000 kick in. And deductions in excess of \$5,000 are when you – the form 8283, which you may all have heard about, you know, the form that donees are supposed to sign-off on, comes into play. But again, the requirements are all set forth, the substantiation requirements. You need a qualified appraiser, you need to complete the appraisal summary, that is essentially the 8283.

If you look at page six in the signature of the original donee section up in the right hand corner, let me read these three sentences to you, please, because these are really what is important. The first sentence. "The person who signs the appraisal summary for the donee," you know, in the case of the Nature Conservancy that's us, in the case of the County that is you folks, "shall be an official authorized to sign the tax or information returns of the donee or a person specifically authorized to sign appraisal summaries by an official authorized to sign the tax or information returns of such donee." Now, that is the federal government speaking, of course. But that – I mean that's – the reason for that, as I understand it, is to insure that whoever has received the gift, okay, that an authorized official has signed on their behalf.

The second sentence. "In the case of a donee that is a governmental unit, the person who signs". It goes on to establish signing requirements for governmental units. So again, it is clear under the regulations. It can be a state, it can be a county, it can be a municipality. It can be the federal government if someone wants to make a bargain sale to the U.S. Fish and Wildlife Service.

Then the third sentence. The signature of the donee on the appraisal summary does not represent concurrence in the appraised value. All you are doing, and it says this on the 8283 in about six points, so no one ever reads it, it says all you are doing is acknowledging receipt of the property, okay. The issue of is the appraisal legitimate in terms of the gift that is being claimed for federal income tax deduction purposes. That is solely an issue between the donor, the seller in a bargain sale situation, and the federal government, the Internal Revenue Service.

So I think that, again, the problem with the both resolutions, to give you sort of a general thematic approach to it, is that you can really get – I think put the County in danger of losing out on very valuable properties that you might want to acquire. In the first situation if you have got a black letter resolution passed about not paying more than appraised value, you know, if you get something that you have got a seller who has got an appraisal by an equally reputable appraiser that is \$20,000 above the Suffolk County's appraisal, right, say the County's appraisal is at \$400,000 and the seller's is at \$420,000. You know, you are not going to have the ability to make an administrative adjustment.

The danger you put yourself in there, I believe, is that you go back and try to massage the appraisals, right, which is the last thing you want to do. I mean, you don't want to – I mean, you want to have a review of the appraisals done right, but again, if you don't have any relief valve in terms of making administrative adjustments to what you pay, there is great temptation to go back into the system and try to massage the numbers that you have gotten through the appraisal. Or the alternative, of course, is for you – we can't do it, of course, the non-profit world can't do it – but you can exercise your eminent domain powers. But then you get into administrative costs, you get into legal costs, and who knows whose appraisal the judge is going to ultimately decide is the right one. It might be yours, but it might be the sellers at \$420,000.

The same thing with bargain sales. If you lock yourself into a system that only allows you to make – to accept bargain sales in situations less than your appraised value, you are going to –

CHAIRMAN BISHOP:

I think that your documents speak well to that second issue. Any questions?

MR. KALÉDIN:

Let me stop there and say that I would be glad to answer any questions you might have.

CHAIRMAN BISHOP:

Because you have 15 minutes left and they tend to ask a lot of questions.

LEGISLATOR CARACCILO:

Okay. While I was temporarily out of the room I did hear over the speaker the conversation or the dialogue by Legislative Counsel in response to the Committee Chair's request to summarize this issue. Obviously you were here, you heard that. Is there anything you would disagree with the analysis made by Legislative Counsel?

MR. KALÉDIN:

In terms of the bargain sale and what the resolution proposed as far as when the County could participate in a bargain sale?

LEGISLATOR CARACCILO:

Yes.

MR. KALÉDIN:

No, I think that was an accurate summary of it.

LEGISLATOR CARACCILO:

Okay. I heard you say that you have been involved as a Nature Conservancy representative attorney for about seven years.

MR. KALEDIN:

Yes, I have been their counsel for seven years.

LEGISLATOR CARACCILOLO:

And during that course of time, how many land transactions have you been involved with?

MR. KALEDIN:

Four to five hundred.

LEGISLATOR CARACCILOLO:

And how many on or for the behalf of Suffolk County?

MR. KALEDIN:

Probably 20 to 25 I'd say.

LEGISLATOR CARACCILOLO:

When you have been involved in those that have involved 8283's, are you made aware of that?

MR. KALEDIN:

Yes. You know, that's a terrific question.

LEGISLATOR CARACCILOLO:

Mr. Chairman, I would appreciate if you would hear this.

MR. KALEDIN:

Let me respond to it. In terms of – even though reading what the internal revenue code regs said to you, I mean, I hope it makes clear the donee's role in the 8283 process. The Conservancy, you know, has its own internal process for dealing with 8283's.

LEGISLATOR CARACCILOLO:

But you also made – you did distinguish the difference between a not-profit versus government, and it is also clear here in the regulation. So, I mean, there is a difference in what you can do that we can't do as it relates to the ten percent rules and other actions.

MR. KALEDIN:

Well, not in terms of bargain sales. In terms of what, how much, above appraised value we might pay for a property, yes, there are differences between –

LEGISLATOR CARACCILOLO:

Are there any limitations on the part of a not-for-profit and what you can pay above and beyond appraised value?

MR. KALEDIN:

Yeah. That is where the ten percent rule comes into play.

LEGISLATOR CARACCILOLO:

And where is that doctrine established? Is it established in law or just practice?

MR. KALEDIN:

Again, it is established indirectly through the private benefit prohibitions that exist in the internal revenue code. We can't take our assets and distribute them to – because of our public charity

status, because of our tax exempt status, to a seller of real estate. So we are bound to stick to appraised value given a ten percent ceiling above that essentially.

LEGISLATOR CARACCILOLO:

Okay. And just to repeat, no governmental entity can do that, be it a village, town, county, state. Is there an exception for the federal government?

MR. KALIEDIN:

In terms of paying more than appraised value? I believe that with proper documentation, and again, I have handed out, we have handed out how the State of New York deals with it, that the State, at least here in New York, makes administrative adjustments to certain acquisitions that it makes that may well go well above ten percent in terms of an increase above appraisal.

LEGISLATOR CARACCILOLO:

And that would not be in violation on New York State Constitution prohibits gifts of public funds.

MR. KALIEDIN:

Not to my knowledge, no. Again, the thing to –

LEGISLATOR CARACCILOLO:

I am going to just be real quick. I have a series of questions, and if I pick something up that I think needs further discussion, then you can come back another time or I will write to you and get your feedback.

MR. KALIEDIN:

Absolutely.

LEGISLATOR CARACCILOLO:

The four or five hundred transactions that you have been involved with Suffolk County –

MR. KALIEDIN:

No, not Suffolk County, Statewide.

LEGISLATOR CARACCILOLO:

Statewide. The number that you have been involved with Suffolk County would be?

MR. KALIEDIN:

A couple dozen.

LEGISLATOR CARACCILOLO:

Were you involved with Shadmoor?

MR. KALIEDIN:

Yes.

LEGISLATOR CARACCILOLO:

What can you tell us about the Shadmoor acquisition?

CHAIRMAN BISHOP:

Can you focus it in?

LEGISLATOR CARACCILOLO:

Okay. When did the negotiations for Shadmoor commence, who commenced them, who negotiated the –

MR. KALEDIN:

Well, when I started with the Conservancy back in '95, the Shadmoor negotiations had been ongoing for years essentially. The attempt to acquire Shadmoor played out over close to a decade and a half.

LEGISLATOR CARACCILOLO:

Okay, but let's get to the final chapter, because it began here in this legislative chamber with a Certificate of Necessity in October or September of '99, but the deal wasn't signed, sealed and delivered for almost 12 months later. So I have a number of questions of why we were acting in haste, but maybe you could fill in some of the blanks.

MR. KALEDIN:

Yeah. At the time – the Conservancy's role in the Shadmoor transaction, again, we had identified endangered plant species on the property and throughout the 90's we had been urging protection of the species –

LEGISLATOR CARACCILOLO:

I understand the significant ecological importance of the site from many people's perspective. I differ with the need to spend public funds to the tune of \$17.2 million when the developers, the two individuals who owned the property, only had permission – or had permission to build four homes –

MR. KALEDIN:

Four lots, yes.

LEGISLATOR CARACCILOLO:

On 19 ½ acres, and 80 ½ acres would have been preserved at not cost to the public. I mean, from your perspective, what is the rationale there?

MR. KALEDIN:

Terrific question. The developers, the two gentlemen who owned the property, you know, and I had met them and through the years they had in my opinion, you know, economic expectations for the property that they had to prove because they always wanted a lot of money for it, as we all know. They ended up after a decade of battling with East Hampton, getting their subdivision approval. You know, as well know, it was like The War of the Roses between East Hampton and the owners of the property, would they get their subdivision approval. They ended up with it.

They ended up with four estate lots in Montauk, you know, at the end of the 90's when real estate – someone in the room was saying earlier, you know, that real estate values in the County went up 33%. I mean, they ended up with four estate lots that they said were going to turn around now that we've got subdivision approval and we are going to sell these four \$5 million each, watch us. They didn't have – they weren't limited as far as 80 of the 98 acres. They had through the subdivision approval process had to set aside approximately 52 of the acres into two reserve areas in the property. But the rest, the remaining 46 acres, they were going to set up as 10 to 12 acre, each one a 10 to 12 acre estate lot.

LEGISLATOR CARACCILOLO:

That is incorrect. I have looked extensively at the record in the files the County has on Shadmoor and the Town Board resolution from the Town of East Hampton, and that is not correct, Sir. I would suggest you take another look at the facts. I am not going to debate the issue, but trust me, almost 80% of that property would have been put into a conservation easement and open space preservation. That's the language that is in the appraisal reports, that is the language that is the Town Board resolution. But my question really is this. When you look at the appraisals that the County received, they are nowhere near what was ultimately paid for for this property, and that to me is very problematic.

MR. KALEDIN:

I understand what you are saying, and I do know that the appraisals through the years on the property, you know, rose and rose and rose. The last one that I remember seeing, and again, in terms of the amount of open space, you know, it may depend on how –

LEGISLATOR CARACCILOLO:

Again, I will be specific with you in some correspondence, but I would appreciate you refreshing your memory.

MR. KALEDIN:

I am going to give you my card, and call me and we will continue this discussion later. But I mean, I was just going to say the last appraisal I saw on Shadmoor was approximately if not at the \$15 million range.

LEGISLATOR CARACCILOLO:

That was a State appraisal, that wasn't a County appraisal. But anyhow, we still paid 17.2, okay, and there are no ten percent rules etceteras. With that said, were you consulted with at all as the Commission that made recommendations, formulated their host of recommendations, did you have any opportunity to go before that Commission and share your views?

MR. KALEDIN:

In terms of generation of this report?

LEGISLATOR CARACCILOLO:

Yes.

CHAIRMAN BISHOP:

We invited him to speak about two distinct issues and –

LEGISLATOR CARACCILOLO:

Well, two of which are recommendations in that report.

MR. KALEDIN:

Legislator Bishop, I am glad to answer any questions that Legislator Caracciolo has, really. But no, the answer is no. I didn't see this report until it was sent to me.

CHAIRMAN BISHOP:

If you want a hearing on Shadmoor, I will entertain a hearing on Shadmoor and we can have

Shadmoor discussions long into the night. But this –

LEGISLATOR CARACCILOLO:

Okay, but, Mr. Chairman, let me ask you the question, then. Two of the recommendations that are part of your host of resolutions are coming from on this subject out of the Commission report. And what I heard the speaker say earlier is that he has problems with two specific recommendations, that is what he started his presentation with. I was out of the room but I was listening. And I just want to make sure that before he leaves, because he is pressed for time, that we have a sense of whether or not he had an opportunity before the Commission made those recommendations to advise them that he did not believe these were issues that should be – anybody should be concerned with.

MR. KALEDIN:

The answer is no.

LEGISLATOR CARACCILOLO:

Thank you.

CHAIRMAN BISHOP:

Thank you. You have three minutes left. Are there any other questions? Do any of the other speakers want to add anything to the dialogue?

SPEAKER FROM THE AUDIENCE:

Nothing other than the Peconic Land Trust, we have used the bargain sale on numerous occasions and it has always been a very useful tool and it has brought sellers to the table that otherwise you may not get.

CHAIRMAN BISHOP:

Right. And you use the ten percent rule as well. Let me as a final question ask, has anybody ever challenged a purchase that you engineered which went nine percent over appraised value and then you said –

MR. KALEDIN:

No.

CHAIRMAN BISHOP:

Well, I want to see if somehow by implication it has been adopted somewhere.

MR. KALEDIN:

Could I make one last comment on the bargain sale situation?

CHAIRMAN BISHOP:

Sure.

MR. KALEDIN:

Which is that, and I was going to get on to it before we veered off into our Shadmoor discussion, which was that the Conservancy has an internal process for dealing with bargain sales, you know, that again, in terms of the documents we have handed out and sent into you, you might want to look at in that we have, we've got – to set up a bargain sale usually a seller wants to have the donate of intent put into the contract. And the thing is, we won't sign an 8283 unless the seller's appraiser has already made his certification in the document.

CHAIRMAN BISHOP:

You have one minute left and let me ask you the last question based on what Counsel Sabatino said at the last hearing. You may have read the minutes. He says it's fraud, by God if you allow this to go on, you perpetrating or helping a fraud occur.

MR. KALIEDIN:

Again, I think that the issue of whether it is fraud or not is something for the seller's appraiser, the seller and the Internal Revenue Service. I mean, the Internal Revenue Service is always there and is always eager and willing and ready to challenge overzealous tax returns, and that includes over zealous deductions taken for exaggerated appraisals of bargain sales.

CHAIRMAN BISHOP:

Okay.

LEGISLATOR CARACCILOLO:

I would appreciate your card.

MR. KALIEDIN:

Sure.

CHAIRMAN BISHOP:

You can call him from the plane.

MR. TURNER:

Can I just conclude with – I realize we are running short of time and we have been up here for a long time. But I did want to just indicate the Conservancy's support for two resolutions, additional resolutions, and those are 1292, which would authorize planning steps for the Benjamin Property, and also 1356, the omnibus resolution for the Pine Barrens. We strongly endorse both of those.

LEGISLATOR CARACCILOLO:

John, could you just as part of your recommendation for 1292, and I see Mr. Amper is here and I know he is familiar with the property. Could you just quickly provide the committee with an overview as to the environmental significance of the property?

MR. TURNER:

I will let Heather do that, who knows the property even better than I.

CHAIRMAN BISHOP:

The way I am organizing this meeting is we are now on the reform bills and idea.

MR. TURNER:

I can stay around.

CHAIRMAN BISHOP:

You stay around.

MR. TURNER:

I will be happy to come back and answer that question then.

CHAIRMAN BISHOP:

Okay. Thank you. Mr. Amper. It is not tradition of this committee to have you at the rear of our parade of speakers. I apologize for that, for breaking tradition.

MR. AMPER:

Thanks. As you know, the Pine Barrens Society has written all of the members of this Legislature asking that you do what it looks very much like what you are doing today, and that is trying to reconcile what you heard from the Executive Legislative Committee, what you heard today from the Nature Conservancy, whether the information was provided before or after – nevertheless it is in front of you. In the interest of moving the program ahead, obviously we are eager to have you make your recommendations for what needs to be done legislatively, and then we would encourage the Executive to move ahead with the acquisition program which we believe is not moving ahead at this time.

Specifically in looking through some of those things that you are considering, 1287, establishing a separate County Department of Real Estate. I think we have made it clear to you we think that is not in the County's interest of the Planning Division. The Planning Department is qualified and can help immensely in picking and choosing among these properties and making sure we are properly planning apart from the preservation objections.

With respect to 1297, it is formalizing procedures for the legislative committee review of land transactions. We have looked at possibly contradictory portions of what it is that is in front of you, one of them saying that you really will want to weigh in on parcels worth more than a million dollars. This whole business of scaling how much has to be done depending on how ambitious the acquisition is. We think it is a good idea, and yet in another portion, in another one of these proposals you've seen the notion that the Legislature wants to see all appraisals. We don't know what that implies. What would you do with the appraisals you saw below a million dollars in value, do you need to approve them for the Real Estate Division to move ahead, or can they move ahead unless you intervene. It is not quite clear.

CHAIRMAN BISHOP:

One of the clear – one of the areas that we have not made a policy determination on is the conflicting appraisal verse the appraisal review situation, and it is one of the things that I hope the committee addresses today. Why don't you tell us what we should do in your opinion.

MR. AMPER:

Well, again, we agree that whatever legislative oversight is essential on these major purchases so we don't get in trouble is a useful thing. This is your program. The Legislature created this, let's not forget that. So, we think you should be involved at that level. But what we think the committee did properly is to suggest that depending on the value of the land, there is a certain amount of detail that we need to go into, and a certain amount of redundancy built into the program. Our concern is more with the yes, you should be entitled to see appraisals, but we just don't know what that implies. What do you do when you see them. If by saying that you must see them you are passing on everyone from \$5 up, that would be a bad idea. If it means that you can stop one if you think somebody is charging \$100 when the property is worth five, that is another matter. But again, we are trying to avoid the Legislature's playing an Executive Branch

role because we think it would hurt the program, it would not very much protect it.

CHAIRMAN BISHOP:

At the risk of engaging in debate, I would just say that I think that the notion of seeing appraisals is based on the idea that if we have more information we can make better policy decisions and it can't hurt if it is in the possession of the County to share it with the policymakers.

MR. AMPER:

Yeah, to the extent that this is not going to inhibit the process or have the Executive Branch – Legislative Branch doing something the Executive Branch – the more you know –

CHAIRMAN BISHOP:

What does the Executive Branch do? They implement the policy direction that we provide.

MR. AMPER:

To the extent that it is helping you set policy and make decisions, no problem.

LEGISLATOR CARACCILO:

Mr. Chairman.

CHAIRMAN BISHOP:

You are not combative today. What's wrong?

LEGISLATOR CARACCILO:

Dick, I welcome your remarks on 1297. I think a literal reading of the resolution makes it very clear what its intent is, and that is we want to eliminate any possibility that we have reoccurrences like we did and I believe you might share that took place with Chandler and Camp property acquisitions.

MR. AMPER:

It is not clear to me that your having seen the appraisals would have changed that.

LEGISLATOR CARACCILO:

I understand that, but at least it would have given the oversight body of County government the opportunity to determine who the buyers – I mean the sellers are. I mean, if you look at the resolution, it is very detailed about disclosure requirements, including purchase price, so that we can compare. As you know, as we found out in Campo, there were representations made in those documents, in those appraisal reports, that were false. And they were used to put a price on the property that was not and could not and is not bona fide.

MR. AMPER:

I hope that the Legislature is qualified to catch false statements in these reports.

LEGISLATOR CARACCILO:

Dick, with all due respect, if we don't have access to the information that tells you that, there is no way – we are sitting here, again, as I said earlier today, writing a blank check.

MR. AMPER:

No one is suggesting that you shouldn't have the information. I am suggesting to you that in both the cases that you just cited they were above one million dollar purchases and you would by virtue of the other resolution have the opportunity to review and to actually participate directly in

LEGISLATOR CARACCILOLO:

Now I understand where you are coming from. Thank you.

MR. AMPER:

1375, the periodic appraiser revue. I have talked to some of you about that. We do think it is a good idea for you to look at the people who are doing these, refresh those lists, determine who is doing this appraisals, because I think increasingly as you tighten control of the program, these appraisals will emerge as very significant. I got an education today – I'm sorry, go ahead.

CHAIRMAN BISHOP:

1375 you are saying.

MR. AMPER:

Yes. I got an education today from the Nature Conservancy people in terms of the responsibilities under the IRS. That was reassuring. I think it does give you some flexibility. I, like I think many of you thought that when our Real Estate Division Director signs-off he is attesting to the value of whatever the claim was being made for the land. That is not so as it has been explained to me, and so I think it does give the County the same kind of flexibility it gives the not-for-profit organizations. So I think you have got a little bit of play in there and I think that is a useful thing for you to have.

In short, we don't want to see – we least of all want to see you wasting taxpayer money, but it is entirely possible for a fair market value for a piece property to be roughly appraised as accurately as it can and for you people in your discretion to say but this is what it is worth to this County and we are not abusing County funds by having that kind of flexibility.

Resolution 1385, that is the one I just referred to with respect to what you discussed with the Nature Conservancy. 1387, again, I am just concerned that we make sure that you – I think you are going to do this this evening, is to try and reconcile what oversight roles and which you want to leave with the – I mean, I know there is some administrative actions that the administration has proposed taking to the extent that you want to record those in legislation. I think that doesn't hurt at all.

The only other thing that I was here to suggest, it is not on the agenda for tonight, but I would like to bring it to your attention, is the – on to this resolution on the Pine Barrens acquisitions which I know that you are working on and that we would love to see back in place so that your very credible program on Pine Barrens preservation can move ahead.

Otherwise, it seems to me that we have gone through a painful, a difficult, a challenging process, but that we may be at watershed with respect to having evaluated a program that led us down and to have put in place things that will allow it to be done efficiently but without protracting the acquisition process any further. The Legislature will have had its said, the County Executive's people will have had a chance to review an important program, and the people of Suffolk County will be the beneficiaries economically and environmentally.

CHAIRMAN BISHOP:

I would like to ask you two questions. I would also like to hear the Nature Conservancy's answer as well to these two questions. How should we handle it when the appraisal review number is less than the appraised value determined by a licensed appraiser?

MR. AMPER:

Well, part of the way you are solving that problem is to make sure that the appraisal review is a licensed appraiser. That was the first mistake. If we have a person who is qualified, however, if I can infer from the direction of your question, the answer is if the County has a qualified person to make that review and the outside appraiser has made a different one, you have got a conflict and I think that is just a question of reconciliation.

I mean, one of the proposals this Legislator has already adopted is the requirement for multiple simultaneous appraisals, wherein most cases I think that not necessary, here would be a case where if you hadn't done it, you might need to do it. There might be a second independent appraisal necessary. I wouldn't have done it for every one –

CHAIRMAN BISHOP:

Here is the essence of the question, though. You can have 500 different appraisals and they might come in at 500 different numbers. Under the current system, though, the reviewer seems to be the determiner of the value because we are told that we are not allowed to authorize purchases above appraised value and it is the review that determines the value. We all recognize that it is foolish that the review is not a licensed appraisal – appraiser. But even after you make that person a licensed appraiser, they can say value is \$900,000, appraisal one can say a million and appraisal two can say a million one. What then? What I think I heard Mr. Isles suggest earlier and I agree with, is that that becomes a policy determination and it should come back to this committee for a determination on how we should handle it.

MR. AMPER:

It could come to this to this committee or at different levels of value you could say that in purchases of less than \$100,000 the Director of Planning should intervene and try to reconcile that and you may want to create a narrow spectrum, maybe 10%, so that you are not going from a real estate appraisal review –

CHAIRMAN BISHOP:

And that was my second. What do you think of the 10 percent rule? Should it be a municipal rule as well, and do you know of any legal basis –

MR. AMPER:

I think it works and I know of no legal impediment because what you certainly don't want to do is waste the taxpayers money, but I think you do have a tremendous amount of discretion and I know of no legal intervention whatever that is said that you do not have some discretion to determine what the property is worth to the County, and I think you are entitled to do that.

CHAIRMAN BISHOP:

Thank you. Are there any other questions?

LEGISLATOR CRECCA:

Just on that very limited point. Basically what you are saying is, I think it is 1382 that says that we can only pay up to appraised value and no more under any circumstances. You would disagree with that?

MR. AMPER:

You would be tying your hands with that and I think that hasn't hurt you. You have been at this thing for close to 25 years, and I don't think that is what the problem has been. Look. We had what I believe to be an unscrupulous Real Estate Division Director who did favors for people with whom he was doing business, and I think that a lot of the things that this Legislature and the

Executive Branch has been doing to purchase land and to be fair have worked very well most of the time and can be expected to do so in the future. Do I think that you have improved and refined the process as a result of your deliberations and the committee's? I think that you have. But I think that there is a risk that you could tie your hands or hamstring yourselves in ways that do not serve the public interest economically or environmentally if you don't use the things that happen. Yeah, we have to stop the things that didn't work, but let's not throw out the baby with the bath water. Let's use the tools that have worked very well and allow Suffolk County to be a leader in land preservation.

CHAIRMAN BISHOP:

Anybody else? Thank you. The Nature Conservancy, do you have answers there to those two questions? John. I will defer on the second one. I thought Jonathan already spoke about it.

CHAIRMAN BISHOP:

I think he was speaking on a legal – you know, I want to know as a policy questions. The two questions. When the appraisal review comes in less than the appraisers –

MR. TURNER:

One thing I will add right now is you may want to have more discussions with the Conservancy staff. Not that I want to belabor this issue at all, I think we do need to move on, but we do have a certified appraiser on staff that has been very helpful in formulating our thinking about it. I think that in the case as you just mentioned, what would be worthwhile would be for the appraisal review person to sit down and meet with the appraiser and go over the appraisal in detail.

It is my understanding that it is not the appraisal review person's job to set the value, that if they are doing that, they are not doing their job right, and that what they should do is meet with the appraiser who has been hired to do the work to establish value to go over issues in the appraisal. Go over the assumptions that were made, go over and look at the comps that were used. If they have certain questions that cause them to have concern or that lead them to a figure different than what is in the appraisal –

CHAIRMAN BISHOP:

So you are not going to adopt the view that we should have flexibility in that circumstance? You would say that it is the –

MR. TURNER:

I think it is best that the appraiser be allowed to work to come with the value of the property, not the appraisal review person.

CHAIRMAN BISHOP:

Oh, you would just – okay. And then the other question is the ten percent rule, which you obviously support, right?

MR. TURNER:

Right.

CHAIRMAN BISHOP:

Okay. Thank you. Legislator Caracciolo.

LEGISLATOR CARACCILOLO:

Before we leave the ten percent rule for another day, if Mr. Isles and the Law Department, Dave Grier, could come up, because it is my recollection this issue was addressed in the Cimino

Commission report and perhaps you can just refresh the committee's memory as to what was said on this issue. I will wait for Tom. Tom, I believe you were the Chairperson. Were you Chairperson or was Bob?

MR. ISLES:

No, I wasn't. The County Attorney was the Chairperson.

LEGISLATOR CARACCILOLO:

I'm sorry.

MR. ISLES:

The Executive Legislative Review Panel did review the question, a very difficult question, and in terms of an assignment of an automatic percentage of saying it is okay to go ten percent above, the committee did not recommend that. The committee recommended that acquisitions be done at fair market value and that – and I am summarizing it because obviously the report goes into it in greater detail. So I don't think we thought that there would be an automatic application of a percentage, but that it would be the best use of information to arrive at what would constitute fair market value. Obviously the work of a professional licensed appraiser would be critical to that and in fact, with a larger acquisitions in excess of \$300,000, two simultaneous independent appraisals would be done. And then on top of that the committee recommended for all but the most minor acquisitions of less than \$25,000, that appraisal review occur.

So through that, arriving at a process of determining value. And as the Chairman indicated, I think there was some discussion or he is anticipating some discussion today of what do we do when we have to reconcile numbers. I think that is something that warrants some further discussion.

LEGISLATOR CARACCILOLO:

In terms of further discussion, when do we take that issue up –

CHAIRMAN BISHOP:

Today, that's why –

LEGISLATOR CARACCILOLO:

Well, okay. Now we have the Law Department here, so maybe the Law Department could shed some light on how we can reconcile this issue. Dave?

MR. GRIER:

At first I would like to just address a comment that Legislator Bishop made saying that acquisitions over approved appraised value were gifts. The response that we provided to you, Legislator Caracciolo, indicates that that is not the case. Fair market value is a subjective valuation based on – you know, it is an opinion, it is a judgement based on all the relevant data as indicated in the response to your letter. And where we have a situation where the value that is paid is grossly disproportionate to what could be considered market value, then we were to be in the situation where there would be a gift problem. So, as it indicates, a 10 percent over appraised value per say is not illegal. You would have to look at each individual acquisition independently to determine if any of the factors which the courts may look at would be relevant.

And as we use an analogy in our response to the condemnation proceeding, the highest approved appraisal provides the floor upon which the condemnation actually goes forward, and at that point if no settlement is reached, a judge determines what the value is and in many, many instances it

is higher than appraised value because other factors are weighed in establishing what the value is for that particular parcel.

LEGISLATOR CARACCILOLO:

Okay. Outside of condemnation issues, give us an example of what you think would be a reasonable document if, as an example, we had an appraisal on a piece of property for five million dollars. What kind of flexibility, to use the words of the two previous speakers, do you believe would be permissible?

MR. GRIER:

Well, I couldn't boil it down to a set formula or anything like that because market value is not based on inflexible formulas or a specific scientific method of reaching that particular value. And again, market value is by definition the price that a willing buyer is willing to pay who is not compelled to purchase the property and a seller who is willing to accept a price for the property and is not compelled to sell the property.

LEGISLATOR CARACCILOLO:

Dave, just to break it down and simplify terms, because we are dealing with terminology here. We have appraised values, we have market values. There is obviously a difference between the two. Which is it should we be most concerned about?

MR. GRIER:

For our general purposes we used an appraisal to estimate what the market value is. So that is what we use as our basis for determining what the County feels is the market value of the property is by going through the appraisal process, the appraisal review process. That is primarily what we look at and should be looking at, as do most entities who buy and sell property.

LEGISLATOR CARACCILOLO:

Okay. Let me go back to my example, then. Let's say we have a willing seller who wants five million dollars for a piece of property, and we have an appraisal for 4.5 million dollars. Do we have flexibility?

MR. GRIER:

I am going to couch it in very general terms. In the sense that if this – putting this aside, the categories in which the report recommended the dual appraisal process, coming back to the Legislature, because that would have ultimately an impact on what the County would do. If at a particular instance a piece of property which has extraordinary environmental or ecological significance was in the process of being subdivided and the County determined that this piece was needed for say water quality protection because it was directly above the aquifer.

Then from the County's perspective it would have a greater desire to purchase that piece as opposed to say some other buyer. So our market value for the property could be higher and in addition, if the seller, because he was looking to arrive at a certain profit level on his purchase would not sell for less than a certain value, putting aside any of the other issues that have arisen with some of the acquisitions that we have read about in the paper, say there are no connections whatsoever between the County and this party or any officials, putting all of that aside, if that is in fact the case and the County were to purchase the property at near what the seller was asking and it was within – and we desired this property for that purpose, then we would be within our powers to purchase the property at that value because –

LEGISLATOR CARACCILOLO:

I understand that, but again, I think we need clarity as we go forward and we adopt policy,

hopefully as soon as today, so that we have some kind of a blueprint, if you will, of what limitations we have as the policymakers so we don't have to raise these questions every single time we have an acquisition before us. We want to get this process in place and moving and expedited if necessary.

MR. TURNER:

I unfortunately stepped out. I was speaking with Presiding Officer Tonna when Jonathan gave most of his presentation so I didn't hear all he said. But my understanding is there was supposed to be in your packet information that was gotten from the DEC about how they go about this, actually lays out their process for evaluation and –

LEGISLATOR CARACCILO:

I understand that, but the distinction being not-profit versus what we can do under the State constitution.

MR. TURNER:

I don't know if you have had a chance to look at that. You might find that helpful.

LEGISLATOR CARACCILO:

I just got it today. I'm sure it would be somewhat useful, but given the State Constitution limitations, where do we cross the line if we have a circumstance where we have a gap between appraised value and what the seller believes is market value? How do we determine the flexibility that you and I and others may determine we should have legally?

MR. GRIER:

Unfortunately, there is no, as Andrew and David could attest from the various cases, no bright line test as to where you have crossed the line and where you haven't. Again, everything is a case by case basis. If, in your example, five million, 4.5 million, if in the realm of appraisals from qualified persons there is a \$500,000 range between appraisals, we would be – it would be within our ability and flexibility to do so. If, for example, we do two independent appraisals and it comes in at – say we take the difference between the two and there is \$500,000 – five million dollars and the seller wants \$10 million, then we are reaching the end of the spectrum where we are getting grossly disproportionate to what market value is. Again, you can't set a specific percentage or dollar figure over appraised value to say okay, here is where the line in this particular parcel is because there are too many different variables depending on the type of acquisition we are undertaking to say.

In a drinking water instance the desire to acquire a piece of property may be greater in this particular area than say another area under the same program because of the difference in ecological significance. The same with another piece of property, say Sagtikos Manor, where that has extreme historical significance versus another piece of property that has some old buildings on it which don't have as much historical significance. There is a difference in, as our response indicates, under the – let me just indicate who the sources – the American Institute of Real Estate Appraisers, they indicate that the use value of the property, the scarcity, the desire of the buyer and the seller, all are factors which roll into what the market value ultimately –

LEGISLATOR CARACCILO:

One minute, Dave. I am trying to follow you where you are at.

MR. GRIER:

It is page two, first full paragraph. Towards the end of the paragraph it indicates the reality of

marketing conditions requires frequent consideration of other factors of value such as use value, utility, scarcity and desire. Those are all subjective criteria which from buyer and seller to buyer and seller are going to be different and they may be different between buyer and seller in the same piece of property. It really is a difficult issue to tack and grapple with in setting a policy, and I am not trying to be evasive or vague, it is just a very complex issue that you as the policymaking body have to deal with, and that is one of the reasons why they have, I believe, set forth \$300,000 we have two appraisals. When it is over a million dollars it comes back to the Legislature for a final determination as to –

LEGISLATOR CARACCILOLO:

I am going to interrupt you because I can see where you will be spending a lot of time before this committee helping us clarify these issues. Tom, did you want to say anything further?

MR. ISLES:

Yeah, actually just picking up where closed with. One clarification is that the committee report specifically said that there should be no discretion to the Real Estate Division Director or the department head to exceed the approved appraised value.

LEGISLATOR CARACCILOLO:

That was – yeah, I didn't have that, so there is kind of a contradiction between this memo I just received and the Commission report.

MR. ISLES:

No, it isn't, and I would just like to clarify that. What the committee looked at is that going beyond the approved appraised value, that is something that you go to the Legislature and it talks specifically about it –

LEGISLATOR CARACCILOLO:

Okay. So now it is here and who do we listen to? Where do we get counsel and advice on what we can do and what we can't do? Legislative Counsel, do you know what I am trying to say?

MR. SABATINO:

Yes, I do.

LEGISLATOR CARACCILOLO:

Okay. It seems nobody else does, so maybe you could help me clarify it further.

MR. SABATINO:

Clarify the question or just give you the answer.

LEGISLATOR CARACCILOLO:

The answer.

MR. SABATINO:

The answer is you cannot pay above the approved appraised value of the person that you hired to perform the work for the County. The only area of question or dispute at this juncture is the issue of how you are going to deal with the review appraiser because the documents that were submitted today I thought made an interesting point which on the first page of the attached memo – not that this document carries any legal weight – but this December 13, 1988 memo stated that the review appraiser and the senior review appraiser are the determinators of fair market value or any parcel of real estate assigned to them by their superior. Then it goes on to say on the next page that, I mean, they set the value. I know there is a current dispute right

now between do you defer to the review appraiser's value or do you go back to the independent appraiser. But once you decide on who the person is going to be, you can't pay above appraised value.

I started in this County 25 years ago, believe it or not, doing land acquisition. The thing that was told to me on the first day is that many things can go wrong in County government, laws can be ignored, laws can be breached, laws can be violated, and nothing will happen. But the one place where it does have significant consequences is when you do it in real estate acquisitions. You do not pay above appraised value. If the land is important enough to acquire, you go to condemnation, and I did many a condemnation proceeding. You invest title to the property, now you own it, and a court can go into the just compensation –

CHAIRMAN BISHOP:

Where are -- you are giving your opinion.

MR. SABATINO:

There is no ten percent rule. There is no Constitutional permission to go above approved appraised value. I did this for a living.

CHAIRMAN BISHOP:

Then if you did it for a living, show some legal documentation like they have done.

MR. SABATINO:

It is called the New York State Constitution.

CHAIRMAN BISHOP:

We have all read –

MR. SABATINO:

The ten percent rule is a classic example. I have been hearing about the ten percent rule for the last three and a half years. Nobody can identify the ten percent rule. Now the memo pops up today, okay, for the first time, shows up today, and it is not a rule. It is a bunch of people sitting in a room, there are no attorneys present at this meeting from what I can see. It is a bunch of review appraisers getting together and saying we think we should give ourselves some flexibility. Even Allan Grecco, when he testified before the Legislature in 1995, stated that you can't go above appraised value. He said that in 1995 because that was the rule -- this is not –

CHAIRMAN BISHOP:

Paul, but the issue – you throw around appraised value is one appraiser's appraised value is not another's. And the conflict occurs when you have multiple appraised values that differ. How do you handle it? You want to in your –

MR. SABATINO:

What you do is you go back to – you as the purchaser go back to your appraiser. You say to your appraiser this is what the other side came up with, can you reconcile it. Are there arithmetical errors or did they have comparables that you missed or vice versa. Or is there a theory of valuation that this person has presented that you can get comfortable with. If your appraiser can get comfortable with that and put it in writing, then you are covered because you have now got an expert –

CHAIRMAN BISHOP:

I think you have experts who are wonderfully comfortable in their own assessments, but they

disagree. You want to say in that circumstance that the person who I guess at one time was Dorothy {Kluicki} and is somebody else in the future, would be the determiner, the ultimate determiner of value.

MR. SABATINO:

No, I am not saying that.

CHAIRMAN BISHOP:

And that you could never go above what that ultimate determiner says.

MR. SABATINO:

No. I said to you as a legitimate dispute, okay. That is an administrative aspect. How the office wants to organize itself around review appraisers and senior review appraisers – I defer to the people that want to do that. When I started in the County, I will say this, though, that the old Department of Land Management made a very big and significant point about using this review appraisal process because of land scandals that had occurred in the prior decade before I came to the County. So it always stuck with me as an extremely significant point to be very, very careful and this review appraisal process was very, very critical.

I will also say that we didn't – at that particular juncture, we had a weapon or a vehicle, which was condemnation. So what happened was if the property was important enough, you condemned the property. You took title and you were down to a just compensation dispute. The judge set the value and you didn't have to worry about this Constitutional issue. But that is the way it was done. I mean, the principles are relatively straightforward.

CHAIRMAN BISHOP:

I thank you. The principles are straightforward, but they are based in opinion, not in law, and there are differing opinions here. Believe it or not, people disagree with you, Paul. Mr. Amper.

MR. AMPER:

I hear Legislator Caracciolo's frustration in trying to get some guidance here, what is the rule of thumb. And Chairman Bishop, what you are suggesting here is what do we need to know legally, and you have, I think, three important insights here today.

First, the Nature Conservancy talked to you a little bit about the ten percent rule. They admit it is a rule of thumb, what they have helped you to do is to understand that there has been no problem in their use of this over the years. It has not resulted in any give-away or any problems that resulted in some unfair benefit to a seller at the expense of the buyer.

You heard a second opinion that dealt with the way that the State reconciles this problem. The State is not violating the Constitution. The State is not acting in any way in a fiscally irresponsible way with the taxpayers money. And you heard from the County Attorney's Office that while there may be no way that he can guide you and say ten percent is okay but 12 percent isn't, what he has told is that you may go above what an appraiser said the fair market value will be if the County has a bona fide governmental purpose in doing that. He used the example of drinking water but there are others. Now, it would be nice if they could give you a formula and say if you are in this range you are in, and in this range you are out, but I think he has correctly pointed out that it is the basis of establishing to the – this policymaking board's satisfaction that the value to the taxpayer is commensurate with what it is you are paying, and it may not fit a pattern, but you are – what all of them have said today is you are perfectly entitled to do it and it may be absolutely essential for you to make these deals. That's all.

CHAIRMAN BISHOP:

I have one before we go to both of you. I want to know, Dave Grier and Paul Sabatino, how you are advising us to handle the Normandy Manor situation. Normandy Manor is the very situation that I have been discussing as a hypothetical. Appraisal review is saying the value of it is less than the appraiser that we retained to obtain an appraisal for the County. What do we now, Dave Grier, and then I want to hear what Paul Sabatino says.

LEGISLATOR CRECCA:

And then I would like to chime in, because it is on this exact point.

MR. GRIER:

Let me just give you first an example from a non-governmental perspective. You go to purchase a piece of property and you want to spend \$900,000. The seller wants a million dollars for it. However, this piece of property has everything you want in it and there is a tremendous desire for you to have this property because of its location, the size, the amenities, whatever it may be. And you decide that in order for you to get that somewhere else you would have to pay more than that, so you are willing to pay the extra amount of money. You would not be paying outside what would be considered fair market value for that value, because for you, that is what you are willing to pay for that piece of property under the circumstances.

Now, as far as the County is concerned, we all know that there is a Constitutional prohibition of gifts. It is where the County would pay to a seller an amount of money over and above what all the other intrinsic value that the County itself puts on for its acquisition purposes beyond it. Say the seller wants a million-two and our appraisal says 900,000. And because of other intrinsic value that the County sees in the property, it sets the value at a million dollars. The County decides – the policymaking body. Since I am going to go with the example where we are using going back to the Legislature for the larger acquisitions. So, we are at a million dollars, the seller wants a million-two. If that two million dollars is out of -- \$200,000, excuse me – is well above what would be market value from the County as the one buyer who would be willing to pay the most considering all those other intrinsic values which no other buyer would have for that piece of property, then you are getting into a situation where, yeah, the Constitutional gift problem is a real issue.

CHAIRMAN BISHOP:

I am talking about Normandy Manor. I want the specific answer in the County Attorney's opinion to the situation presented in Normandy Manor, which is the one that we really need to deal with in the future, which is, again, appraisal review has come in at a lower number than the licensed appraiser retained by the County. What is the mechanism to deal with that?

MR. GRIER:

The one issue, and Tom Isles can correct me if I am wrong, appraisals in general do not themselves include intrinsic values that are important to an individual buyer. So our appraisal and our appraisal review may not have taken that into consideration.

CHAIRMAN BISHOP:

So your – I am going to put words in your mouth and you agree or disagree. So your answer is that because of the notion of intrinsic value it becomes a policy question. If the County as a

policy – the County policymakers want to pay more than the appraised value so long as it is not –

MR. GRIER:

Grossly disproportionate.

CHAIRMAN BISHOP:

Grossly disproportionate, we have the right to do that. That is your legal opinion.

MR. GRIER:

That's the way the case law that we have seen on the issue has come out, so yes, I would agree.

CHAIRMAN BISHOP:

Paul, now I want your legal opinion, which I know differs, but I want to get it on the record and then we can discuss what we want to do about it.

MR. SABATINO:

You asked me what I would recommend. I would recommend that you bring in the two people –

CHAIRMAN BISHOP:

No, I didn't ask –

LEGISLATOR CRECCA:

No, what the legal opinion is. That is what I am trying to get to, too, and I am not trying to –

MR. SABATINO:

You said give advice as to what you should do.

LEGISLATOR CRECCA:

Now we are asking what is legally under the case law and under the State Constitution –

CHAIRMAN BISHOP:

You know what? You can answer both questions. You can answer what you think we should do and what the law is.

MR. SABATINO:

You can't answer the question intelligently unless you speak to the appraiser and the review appraiser. If there is a difference of opinion with regard to the values, how do I know what the difference is? Is it based on the review appraiser has uncovered a major flaw in what the appraiser did or is it simply a arithmetical calculation? Is it based on the theory of valuation? How you can you –

CHAIRMAN BISHOP:

Let's rule out arithmetical calculation issue because I assume that could be solved with a phone call. It is some theory, it's a difference of opinion, of professional opinion.

LEGISLATOR CRECCA:

On valuation.

CHAIRMAN BISHOP:

On valuation, right. It is not arithmetic.

MR. SABATINO:

You have to go with the approved appraised value or you condemn the property. Those are the options. Approved appraised value –

CHAIRMAN BISHOP:

Is what?

MR. SABATINO:

Because of the procedures that are currently in place, the value is determined by the review appraiser and the senior review appraiser.

CHAIRMAN BISHOP:

Okay. And you are taking this document as law.

MR. SABATINO:

No.

CHAIRMAN BISHOP:

Because you just discredited to begin with –

MR. SABATINO:

You are absolutely right, but the procedures that are being used administratively – I didn't hire the review appraisers. I didn't put the senior review appraisers in place, but that is what you are dealing with right now. There are people who were hired with the expertise – I presume they have passed a Civil Service exam – to provide that information. How can you discard their work unless you have established a new policy?

LEGISLATOR CRECCA:

Just trying to get us into focus here, because I think we are all – the law in New York State says what in the State Constitution? Forget about what our policies are and applications here in Suffolk County or what has been previously –

MR. SABATINO:

You cannot go above your approved appraised value, however you determine that.

CHAIRMAN BISHOP:

That is the Constitution?

MR. SABATINO:

Because you can't make a gift of property, which means you can't go above what the value of the property is. The value of the property has to be determined –

CHAIRMAN BISHOP:

It does not say you have to use appraised value anywhere in the New York State Constitution.

MR. SABATINO:

The New York State Constitution says you cannot make a gift of public, of County property, so you can only pay for value. If you pay for value, how do you determine how you pay for value.

LEGISLATOR CRECCA:

Can I take that from here now, please? First of all, real estate is a unique asset, okay, and I think the case law has bared that out over the years. It is different than other property, real estate. It has always been talked about as unique, number one. Number two is an appraisal is just an expert opinion as to – that is all it is, is an expert opinion as to the value of a given piece of real estate. That's why – and as an attorney who has seen tons of appraisals, that is why you see differences among appraisals. If you see grossly disproportionate appraisals, then as a buyer, or even as a seller, you have to question why there are those disproportionate appraisals.

But what I believe what the Constitution says is that we can't pay more than its fair market value. I know that is not – but that is really what it is saying. And how you determine fair market value in any situation, okay, is by assessing what the market will bear, what a piece of property has, and I think that just like we see when we bought our own homes or any other piece of real estate, properties have different values based on intrinsic value. And the bottom line is, is that you can't say an appraisal is a be all and end all. If an appraisal comes back and says a piece of property is worth one million dollars and it has great historical significance, and I will use Sagtikos Manor since that is not really an issue or whatever, but – and this County as a policymaking body determines that you know what, we are willing to pay \$1.3 million for that piece of property, then that's, I believe, first of all, that is the fair market value.

The other thing, too, is that we are forgetting is I think what we want to do in this reform is not allow people who are in administrative positions, you know, employees of the Real Estate Division or the Planning Division, we don't want them to pay more than appraised value. I think everyone agrees with that. But if it is more than appraised value, absolutely they can come back to us. We sit on a horseshoe, I am accountable to my constituency and the public, and if I want to spend \$2 million on a \$1 million, you know what? That is going to be debated and be before, and I am going to have to make a decision as to whether or not I want to do that.

Now, certainly if it is grossly disproportionate we are going above and beyond our duties, but if it is within fair market value, and what we determine to be that, then that is our decision as policymakers.

CHAIRMAN BISHOP:

I think that is exactly the correct answer.

LEGISLATOR CRECCA:

The realty is, is that the law is what the law is, and ultimately whether it is today or it is ten years from now, people sitting at this horseshoe or whatever legislative body is in place in Suffolk County is going to be the one to make those policy decisions, okay, and we will do it within the bounds of the Constitution.

The problem I have, I just want to say, with a lot of the things we are discussing today, and some of the things, not all of the things, but some of the things in the omnibus bill before us is it is a great thing to reform and it is a good thing to set forth guidelines that make – that prevent abuses in the future. But, I mean, I see some things in here that are just so limiting our ability as policymakers to make decisions on behalf of this County that we are making some huge mistakes here, down to some simple things like appraisals having to be filed within two days of a certain, certain thing. I mean, God forbid there was a legal holiday, the way this is written, if it is done on a Friday it won't be able to – the Director of the Division of Real Estate won't be able to comply legally with the provisions we've set up here. I am using that as an example of –

CHAIRMAN BISHOP:

Where are you reading from?

LEGISLATOR CRECCA:

It is on page seven. It says basically the Director of the Division of Real Estate in the County Department of Planning has to file a copy of every appraisal by a duly enacted resolution. Then it goes on and it says it has to be with the County Executive and the committee within two days after the filing of a resolution authorizing acquisition of any – so if I file a resolution on a Friday, then by Sunday, the way I interpret this, it has to be –

CHAIRMAN BISHOP:

Excess value review?

LEGISLATOR CRECCA:

Yeah, down the second – that is not my point. My point is –

CHAIRMAN BISHOP:

Your point is that something is overreaching.

LEGISLATOR CRECCA:

I have other examples, too, but just to get back to the point of we were talking about. I don't want to get too far askew. Look, ultimately it doesn't say appraised value in the State Constitution. It says fair market value. And people every day –

CHAIRMAN BISHOP:

It passed five-zero. You are criticizing something you voting for last time.

LEGISLATOR CRECCA:

Well, then I am criticizing it, David. You know, last time we went –

MR. AMPER:

Mr. Chairman, on this value thing. I think you are closing in on this value thing. When Legislator Crecca said that different appraisals are going to produce different numbers, that is because things have different values to different people and entities. What you are hearing from all the legal counsel is, that the policymakers can decide what the value is to the people of Suffolk County. With all due respect, if Legislative Counsel feels otherwise, find us some law, find us some case law, that says you are making a gift if you pay more than an appraised value. You can't pay more than the value, but you have broad discretion in what constitutes your judgement of the value and there will be no excesses if this Legislature visits those things as this reform bill has proposed. You can make that evaluation on a case by case basis. You may say this may be worth this to any other buyer, but to the people of Suffolk it is an irreplaceable acquisition and it has to be made, and as long as you can make that case, you are within the scope of the law and the Constitution.

LEGISLATOR CRECCA:

And Mr. Chairman, understand, too, that as we face individual questions on that value, we are going to have before us I'm sure, you know, I'm sure Real Estate is going to be before us and saying we are going to know what the appraised value is under these guidelines and we are going to know that we are going to have people testifying before us as to opinions, because the whole

reason it is going to be coming back before us in many of these cases is because it is going to be above appraised value, and we are going to have Counsel sitting there and Counsel is going to say to us, you know what, you guys may be doing a gift and violating the State Constitution if you go to this amount or that amount. I certainly wouldn't – I don't think anyone would argue that if we have a million dollar appraisal and we pay a million fifty dollars that we are paying above fair market value.

MR. AMPER:

No one was looking before, now you are all looking and you have – he may not be able to give you a formula for everything forever, but he is available to you on a case by case basis as is Legislative Counsel, to sit down and help you sort that out and make sure you are doing the right thing.

CHAIRMAN BISHOP:

Legislator Fields.

LEGISLATOR FIELDS:

I think a lot of the problems may be answered by the simultaneous double appraisal, you know, two appraisals done simultaneously I think are probably going to work out some of these arguments that we are assuming are going to happen. That is the first step, I think, and we took it and I think it was a good stop, and that is what the State does. The second part of it, I think, is those two appraisals then go to the review appraiser, correct?

MR. ISLES:

That is correct.

LEGISLATOR FIELDS:

Can we –

CHAIRMAN BISHOP:

What did you –

LEGISLATOR FIELDS:

I would like Mike and Andrew –

CHAIRMAN BISHOP:

She wants your attention. She paid attention to your –

LEGISLATOR FIELDS:

Yeah. What I said was we have already approved the simultaneous two appraisals, which I think is probably going to stop some of these questions from happening anyway. Okay. So then it goes and Tom Isles has just said it then goes to the review appraiser. Now, if the review appraiser, let's take Normandy Manor. It is \$100,000 short? \$85,000 short. Now if, and this was John Turner's suggestions, which I think was an excellent suggestion, what happens then if those two appraisals come before the review appraiser, the review appraiser says there is a discrepancy here, let me sit down with the two appraisers and find out how they came to their valuation, and then hopefully at that point it is hammered out. Now, let's say it is not hammered out and maybe it is disproportionate or it is somewhat over. Then don't we have the ability because it is – is condemnation not for public benefit?

MR. GRIER:

Yes, it is. That is always an option.

LEGISLATOR FIELDS:

Why don't we want to do a condemnation?

MR. GRIER:

It is much more costly.

CHAIRMAN BISHOP:

The costs associated with condemning property are much greater than through negotiation –

LEGISLATOR FIELDS:

The costs meaning that what, what is going to be –

CHAIRMAN BISHOP:

Condemnation involves an arduous court proceeding.

LEGISLATOR FIELDS:

Right.

LEGISLATOR CRECCA:

Which our legal fees like in a case like – of this one, of the estate we are talking about, the Normandy Manor, I can tell you would probably, the \$85,000 difference that you are talking about would probably be used up in legal fees probably in a condemnation proceeding. You know, condemnation is – we have the power of eminent domain to condemn property.

LEGISLATOR FIELDS:

Do we not have the ability to do that within the County rather than asking someone outside to do –

LEGISLATOR CRECCA:

No, we would do it in the County, but there is a court proceeding that always followings regarding the value.

LEGISLATOR FIELDS:

But do you pay for the court proceeding?

LEGISLATOR CRECCA:

Well, you have to have lawyers, sure.

LEGISLATOR FIELDS:

But that is our attorney. You are not paying for an outside counsel.

MR. GRIER:

There are other administrative fees –

LEGISLATOR FIELDS:

But how many would there be? I mean, would be condemning every single piece of property that we are trying to buy? How often would you see a condemnation proceeding?

CHAIRMAN BISHOP:

Plus it takes a lot longer.

LEGISLATOR FIELDS:

But don't you think that with – all right, let's take away the condemnation then. Don't you think then with –

CHAIRMAN BISHOP:

You want to add it as a tool.

LEGISLATOR FIELDS:

As a tool. But don't you think, or Dave, do you think that some of these problems would be answered by the two appraisals going to the review appraiser and then if there is a question, let's say in the Normandy Manor, the review appraiser then sits down with the two appraisers. Do you think then they would be able to –

MR. GRIER:

I would agree with you that in many cases, yeah, they could work out what the differences are and determine whether or not there was a flaw in one appraisal versus another, what factors were included. Yeah, I think a lot of those things could be resolved through that process. I wouldn't say all of them, you know, that would be too optimistic, but I think a lot of them would be.

CHAIRMAN BISHOP:

Okay. Legislator Cooper.

MR. COOPER:

I just wanted to make the point, although it may have been made – it was probably made earlier that it is obvious that the real estate approval process is more of an art than a science. As a result, you are always going to have differences of opinion. You always have then between one appraiser and another. So particularly for the level four acquisitions where we are going to have two simultaneous appraisal and then an appraisal review, you are talking about three individuals, each using their skills to the best of their ability to come up with what they believe to be fair market value. But I can bet you ten bucks that there will be honest differences of opinion, and I don't think that if you get the three of them in the room necessarily talking they are going to get beyond that. So the question for us is what do you do when you have got that situation.

In the case of Normandy Manor we have the State certified appraiser who came in with one value. The non-certified in-house appraiser was \$85,000 less. Between the two, I would take the certified appraiser. But, for some future acquisition, we may have one of the State certified appraisers being the highest value, the in-house reviewer in the middle, and another State certified for low. Well, then what do you do in that case? I think that ultimately it has to be in the hands of the legislative body.

Speaking as representative of the residents of the 18th District, my district is very, very supportive of open space acquisition and there is very broad support in my district for open space acquisitions and farmland preservation and parkland acquisitions. I would be very comfortable as representative of the 18th District in approve ten percent over an appraised value because I believe that my constituents understand that if we delay on these acquisitions now and put them off for six months, a year, two years, particularly in western Suffolk, particularly in my district, most of the parcels that I have interest in, they are going to be gone in six months or 12 months.

LEGISLATOR FIELDS:

What if it is 20 percent, though. Then what – I guess we are all –

LEGISLATOR COOPER:

Then I will be battling on a case by case basis.

LEGISLATOR FIELDS:

So that it comes back to us. I think we probably all agree with that at this point.

CHAIRMAN BISHOP:

Good, because that is a significant moment, then. We have made a policy determination how we want to handle this.

LEGISLATOR CRECCA:

I know Mike has to speak, but I just wanted to say –

LEGISLATOR COOPER:

And I just want to say I do not want to see anywhere in writing ten percent or five percent or 20 percent. I would rather have it left at – leave that flexibility, we'll decide –

CHAIRMAN BISHOP:

I think the rule that you and Legislator Crecca and myself and know Legislator Fields are attempting to articulate is that when there is a discrepancy between appraisals or there is a discrepancy between the asking price and the appraisal, that it becomes a matter of policy to be determined by the County Legislature whether we will go to a higher price.

LEGISLATOR CRECCA:

Right. And the way to simply, too –

CHAIRMAN BISHOP:

Or accept a higher appraisal.

LEGISLATOR CRECCA:

Is that someone in an administrative position cannot pay more than appraised –

CHAIRMAN BISHOP:

There would be a prohibition against an administrative action, but it would become a discretionary –

LEGISLATOR CRECCA:

And that is true whether it was a \$50,000 piece of property or a \$5 million piece of property. They can't pay more than appraised value. Because what we really are trying to do is they are the ones who don't have the public scrutiny, we are, so we don't want them making that determination. It would have to be a policy decision –

CHAIRMAN BISHOP:

Not an administrative function.

LEGISLATOR FIELDS:

But in addition, when it comes back to us, someone has to be able to present a very, very good reason as to why that property should be paid a lot more for. In other words, what I think we are all concerned about is someone being in a position to make some kind of a deal for above the appraisal and something happening, and then us not being able to verify that that is absolutely worthy of public benefit and appraisal – I mean acquisition.

CHAIRMAN BISHOP:

Legislator Caracciolo, I know you are waiting patiently.

LEGISLATOR CARACCILOLO:

To anyone on the panel. To the extent that we can talk about the lawsuit the County is now a defendant in, that being the one brought by {Reggie Selzer} and a number of individual taxpayers, what is the essence of that lawsuit?

MR. GRIER:

Unfortunately I am not handling that. I haven't been made aware of what the allegations are in that particular suit, so I unfortunately could not answer that question.

LEGISLATOR CARACCILOLO:

Is there anyone else on the panel that can answer that?

MR. AMPER:

I don't know that -- we discourage that is being brought I would think much of what you do to restoring the program may actually resolve that, but I don't know the details of it because I discouraged its being brought.

LEGISLATOR CARACCILOLO:

Does Legislative Counsel -- have you seen the court papers?

MR. SABATINO:

I saw the original complaint. There is an amended complaint which added some I think additional defendants and made some new theories, but I didn't see that one. The original one I saw is a taxpayers waste action under Section 51 of the New York General Municipal Law, which basically alleges that the County is responsible, including the individuals who authorized it, for the payment of monies on the Chandler Estate in excess of appraised value. And I think she added the {Campo} parcel to the second proceeding, but I haven't seen that one.

LEGISLATOR CARACCILOLO:

Okay. In effect if the policy being discussed here transfers that responsibility from administrative staff to elected officials, is there a defense for the legislative officials if they exceed in the eyes of the beholder, taxpayers -- in other words, do we abridge our fiduciary responsibility if we in effect do what the administrative staff who is accused of doing in those two transactions. Are we then subject to individual suit and if so, would that include punitive and compensatory damages or neither?

MR. AMPER:

I may be able to help you with that one. What I do know about that lawsuit is that it specifically alleged that somebody in an administrative position had done something that was improper that was to benefit a business associate, something that you people would presumably not be accused of doing. You are establishing value for the benefit of the County. In this case, the charges that they were establishing the value or the price paid for the benefit of the seller. That is a very different argument.

LEGISLATOR CARACCILOLO:

Okay. Thank you. Counsel, could you answer my question?

MR. SABATINO:

The debate that just took place in the last 45 minutes will simply be shifted to those executive sessions and the same questions are going to be raised and at the end of that process you are going to have to have a comfort level in terms of documentation to support what you are doing.

CHAIRMAN BISHOP:

Why would we have to be in executive session?

LEGISLATOR CARACCILOLO:

Excuse me. I think I have the floor.

CHAIRMAN BISHOP:

Why would it be in executive session?

MR. SABATINO:

I was being kind. If you want to do it in open session, it is the same issue. You are going to have to deal with those same questions and those same – people are going to turn to Dave Grier and myself and say after listening to the three – the two independent appraisers that we hired and the one review appraiser and the Director of Real Estate go through the whole debate. Then somebody is going to say \$2 million. Use the example that was described before, \$2 million for the parcel that is appraised at \$1 million, so. Then somebody else is going to turn to Dave Grier and then to myself and say can we do the \$2 million for the \$1 million parcel and we are going to have the same debate all over again. You can have the debate, I am not criticizing debate, but to answer Legislator Caracciolo's point, when somebody brings a challenge, you have to be in a position to defend that.

LEGISLATOR CARACCILOLO:

But you didn't answer my question. My question is, what type of culpability are elected County Legislators placing themselves in if they make those independent judgements.

MR. SABATINO:

You are held to the same standard from a legal standpoint on a taxpayers waste action as an administrator would be. So, if somebody can make the case that there was –

CHAIRMAN BISHOP:

Bad faith, right?

MR. SABATINO:

Well, if somebody can make the same case against the elected official, they could make against the administrator, you are in the same situation. I mean, the liability –

CHAIRMAN BISHOP:

The administrator is acting in bad faith by the description that Mr. Amper provided. We are not acting in bad faith. If we say it is worth two million, it is because we feel it is worth two million, not because we are trying to line somebody's pockets. That is the distinction. I mean, you are not going to support that? You think that a Legislator could be held personally accountable financially if – that is absurd.

MR. SABATINO:

What I said to you is you have to be careful how you characterize it. I mean, if you characterize it as I am a Legislator and I think the value should be \$2 million, you are in a danger zone, okay,

as opposed to some of the other things that are being described or discussed which is that we sat down with the review appraiser, we listened to the analysis, we listened to the evaluation, this point was brought up which somebody else missed, and you can get into some kind of detailed analysis, you may have a basis for forming this judgement. But you can't willy-nilly say I am an elected official and I think the value is \$2 million instead of a million dollars. You are in a danger zone with that.

LEGISLATOR CARACCILOLO:

Okay. Mr. Chairman, on that very point you just made, your last comment, that then should be put on the official record as to what the justification was for increasing the value.

CHAIRMAN BISHOP:

We should – right. There should be a record, just like the State makes a record when they do their administrative process. When we do our legislative process in this regard we should have a record. I still disagree with Counsel's analysis. I would like – I mean, I think that we would have, if we are acting in good faith, that we would have immunity.

MR. SABATINO:

I get concerned because what happens is, two years from now everybody is going to look at me and say how did you let me get in trouble if you get in trouble. My job is not to find ways to get into trouble, but to try to find the ways to try to keep you out of it. So I take a conservative, careful approach.

CHAIRMAN BISHOP:

With regard to careful –

MR. SABATINO:

Good faith is great, but you have to establish the good faith. The good faith involves more than just a blanket statement I think it is worth \$2 million.

LEGISLATOR CARACCILOLO:

And I would just add that I think what Counsel is trying to advise is be careful of political expediency because it may come back to haunt you.

MR. GRIER:

Legislator Bishop, can I just add a point? I would agree with Counsel that if you are going to make a determination of something over and above appraised value, you have to look at all relevant data and testimony that would be appropriate for you to make that determination so you avoid issues of arbitrating capricious, bad faith, all those things. You would have to review those and weigh that data and make your determination. I would agree with Counsel in that respect because that is what goes to the intrinsic values to the County –

LEGISLATOR CRECCA:

And just so – I just want to say for the record, too, I agree with Counsel that if you are going to go above appraised value of any significant amount, you are probably going to need – the record is going to need to bear out the reasons why we are doing that. And the more you go above it, the more you are risking. But what I am saying is, as a legislative body I would think that we will be responsible enough that you are not going to pay \$2 million for a million dollar appraisal. I mean, that would be, you know, that would be like the OBI over again – I'm sorry, that was just –

CHAIRMAN BISHOP:

My comment is not on the wisdom of paying double, but on the legal implications of paying double and I think we all agree if we ever go above appraised value we need to have a record as to why.

All right. Now, do we have an agreement on a policy that we could put into this omnibus? I believe we do.

LEGISLATOR CRECCA:

The County will not pay above appraised value without –

LEGISLATOR FIELDS:

There should be steps, though, as I was trying to say before. The simultaneous appraisals, the appraiser review, the discussion between the appraiser and the review appraiser, and then go back to the Legislature for, you know, their decision, but they also have to have from all of the parties why they feel it should be –

LEGISLATOR CRECCA:

Ginny, can I respond to that, though, briefly? The only thing is, what I don't want to do is if we have an appraisal that's, you know, on a million dollar piece of property that is one-thousand dollars over, we shouldn't have to go through that entire process. I am just saying – I personally think that it is enough to have a policy that we can't pay more than appraised value –

CHAIRMAN BISHOP:

Administratively.

LEGISLATOR CRECCA:

Administratively. Any time we are going to pay more than appraised value has to come back to the Legislature for approval. As Legislators, out of the 18 of us there is going to be somebody who says well, what is the difference in the price, where are the appraisals, why aren't the appraisals compliant – I mean, there has to be a questioning process. Once it comes back to us, it is open to public debate. I mean, I would even go as far as –

CHAIRMAN BISHOP:

Or a simple rule without creating pages of pages of –

LEGISLATOR CRECCA:

Yeah, one of the things I was saying is I want to keep the rules simple because this is Charter Law.

MR. AMPER:

But once you have done it, though, if it comes backs to what you might call a valuation determination and rationale, then I can see no danger. The entire Legislature is not going to conspire to do some deal for somebody's benefit.

CHAIRMAN BISHOP:

I don't think that is the issue. I think that Legislator Fields is saying there should be a whole process before it comes to us, and Legislator Crecca is saying – that is not what you are saying?

LEGISLATOR FIELDS:

I am just saying that it was a very good point brought up before. I mean, {Reggie Selzer} brought up one piece of litigation, but what is to stop the taxpayer from saying this Legislature is paying too much with my tax money. I mean, you know, that's a possibility. And how do we maintain that we are paying above because. I think there should be some kind of rule.

CHAIRMAN BISHOP:

I think what Legislator Crecca is attempting to do, he is doing very well, which is the rule is that administratively the cannot pay more than appraised value as determined – who determines appraised value. Why don't we say the lowest appraised value in possession. I will give you the rationale. The rationale is you have three appraisals, the one says \$900,000, one says a million, one says a million-one. Administratively you can't pay more than 900,000. If you want to pay the million-one, just come back here. That would – that's exactly the rule that we are looking for.

MR. AMPER:

Doesn't that just give you the lowest appraiser?

MR. GRIER:

That doesn't necessarily take into account the review appraiser's recommendations.

LEGISLATOR CRECCA:

Let them determine the appraised value.

CHAIRMAN BISHOP:

Let who determine the appraised value?

LEGISLATOR CRECCA:

Well, aren't – we are determining the appraised value now by – how are we determining the appraised value now?

CHAIRMAN BISHOP:

We are determining the market value. The appraisers determine –

LEGISLATOR CRECCA:

It is like the chicken and the egg. We are back to the beginning again.

CHAIRMAN BISHOP:

The appraisers determine the appraised value. What's the trigger to send something back to us if you have multiple appraisals? I would say go with the lowest and then we will make it a policy.

LEGISLATOR CRECCA:

Just the opposite, I think they can't pay more than the highest appraised value. The max there is is two appraisals for the County.

CHAIRMAN BISHOP:

Then if that is the rule, then you have not reformed the situation of Chandler, because in that situation there was an appraisal that was way up and there was another appraisal that was way down. Under the rule that you just –

LEGISLATOR CRECCA:

No, that is a good point.

CHAIRMAN BISHOP:

Right, okay. So that is why you would go with the lowest.

LEGISLATOR CRECCA:

It is a valid point. I give you that one, David.

CHAIRMAN BISHOP:

Thank you. A victory for the forces of good.

MR. GRIER:

It was my understanding of the discussion that it would come back to you where the approved appraised value was less than what the seller wanted and then you would review it, not where it is the lowest appraisal. Again, you would have the process of having the dual appraisals, having the review appraisal process internally, and then a recommendation made.

CHAIRMAN BISHOP:

But not everything will have two appraisals.

MR. GRIER:

Over \$300,000. I think with parcels under the 300,000 and even ones up to a million, my understanding, and Mr. Isles could correct me if I am wrong, but the issues that we are dealing with here generally goes not happen in the smaller value properties. It happens in the larger value properties where you are talking more significant dollars. I believe the rule of having the approved appraised value, over the approved appraised value would come back to after the review appraisal process internally, after we have gotten the dual appraisals, our review appraisers have reviewed them and made a recommendation. I think that would be the threshold to use.

CHAIRMAN BISHOP:

That would take care of Chandler.

MS. COSTIGAN:

Mr. Chairman. With regard to the situation of where you are saying the dilemma is caused by the number provided by the appraisal reviewer, that dilemma is soon to be resolved. I mean, that dilemma is not going to exist in my opinion.

The memo that you have been reviewing, which I think was dated 1988, dealt with a different world in terms of appraisals. Since then, the Appraisal Review Institute has completely changed the responsibilities of appraisals and appraisal reviews, and indeed that has been adopted by the federal government in terms of their review for any acquisition which involves federal monies. And toward that end, the Appraisal Review Institute has segregated the responsibilities of an appraisal reviewer, who is not an appraiser, an appraisal reviewer, which is what we have, and an appraiser.

And to that end, let me just quote two sentences from the recent publication from the Appraisal Review Institute. First of all, "An appraisal reviewer identifies and judges the logic that underlies the appraiser's work, but does not substitute his or her own judgement for the judgement of the appraiser. The distinction between appraisal review and a second opinion of value is critical. An appraisal review does not lead to an alternative value conclusion."

CHAIRMAN BISHOP:

So the appraisal review doesn't give you numbers.

MS. COSTIGAN:

It is not going to anymore is what I am telling you. The job duties and the procedures in the Division were set up in 1987.

CHAIRMAN BISHOP:

So what happened in Normandy Manor?

MS. COSTIGAN:

I wasn't here then. I am telling you this is as of talking today forward.

LEGISLATOR FIELDS:

What will the appraisal reviewer review appraisal do, appraiser do.

MS. COSTIGAN:

The appraiser reviewer's duties are very specifically set out, and there is a lot of them. They include and contemplate some of what you said. I mean, I can read them to you. They are in your packet.

LEGISLATOR FIELDS:

Are they?

MS. COSTIGAN:

Yes. They are in the letter from the Nature Conservancy, which you have.

CHAIRMAN BISHOP:

Let me ask you this question. In the Normandy Manor situation, whether it is true or not, the perception is that the appraisal that was relied on was bogus and appraisal review rejected it and they put a number on it, right, they said it was wroth (x) and the other guy said it was worth (x) plus five. In the new world of appraisal review, if the licensed appraiser is rejected by appraisal review, then it is rejected by the County, right? It is not a discretionary call for us at that point, or is it?

MS. COSTIGAN:

If it is rejected, yes, but I think that Legislator Fields has identified there is a lot of steps before its being rejected.

CHAIRMAN BISHOP:

Okay. So let me just review this – review the review. If the appraisal comes in and it is at a million and the appraisal review of the County in the department says the methodology is flawed, they don't put a number on it, but they reject it.

MS. COSTIGAN:

They would only reject it after discussing it with the appraiser saying we think your methodology is flawed. Then at that point we will also have – we will have a general certified appraiser on staff with whom this appraisal review can bounce off his or her ideas.

CHAIRMAN BISHOP:

But it is rejected.

MS. COSTIGAN:

Well, ultimately say it is rejected.

CHAIRMAN BISHOP:

If it is rejected, then it can't come over to this branch.

MS. COSTIGAN:

Right.

CHAIRMAN BISHOP:

We are done.

MS. COSTIGAN:

Yes.

CHAIRMAN BISHOP:

It is rejected. If it is accepted but the seller wants more than the appraisal, then it would come over.

MS. COSTIGAN:

Right.

LEGISLATOR CARACCILOLO:

Mr. Chairman, the example you just described is Oak Beach Inn. Oak Beach Inn was flatly rejected by the County's appraiser. That would have --

MS. COSTIGAN:

The County's appraisal reviewer. We don't have --

LEGISLATOR CARACCILOLO:

I'm sorry, appraisal review, right, Gary Taibbi.

CHAIRMAN BISHOP:

The appraisal reviewer rejected the methodology.

LEGISLATOR CARACCILOLO:

Right. So at that point, to use that as an example, that would have been the end of it because at that time we did not have -- did we have a general certified appraiser but we weren't use them in that capacity at that time, Tom?

MR. ISLES:

Right.

MS. COSTIGAN:

And now we would have two appraisals in that circumstance.

LEGISLATOR CARACCILOLO:

Well, I understand the difference between then and now. What I am saying in that example, if I could finish that point, in that example where he flatly, and he was very emphatic in the terminology in his report, rejected it in its entirety in more than one place, what would have happened before the new process is in place.

MS. COSTIGAN:

Theoretically going forward it would not have proceeded to here.

LEGISLATOR CARACCILO:

Okay. And that is what should have happened in that one.

MS. COSTIGAN:

I think it likely that that would happen with two appraisals, however.

CHAIRMAN BISHOP:

But you know why that would happen is because the person who rejected it was not a licensed appraiser and didn't understand what the licensed appraiser was talking about.

MS. COSTIGAN:

An appraisal reviewer is not an appraiser and will not be an appraiser –

CHAIRMAN BISHOP:

Oh, you are still not going to have an –

MS. COSTIGAN:

An appraiser reviewer –

CHAIRMAN BISHOP:

So isn't that a lot of power to put into somebody who is not a licensed – to me it is like the HMO situation. Here you have a doctor, a professional, who says the patient needs (x) and he wants to prescribe (x) and then the HMO says, who is a nurse, at best, says no, not (x), (x) minus (y) is better.

MS. COSTIGAN:

In pure theory what you say is true, but if, and I hope you have an opportunity to read the job, the responsibilities of the appraisal reviewer, because what they can go back to the appraiser with is to say you mathematics are wrong, they'll be fixed. Your comparables are wrong, they will be defended. It is very difficult to get to the point where the appraisal is rejected is what I am telling you.

LEGISLATOR COOPER:

But aren't there appraisal reviewers that are appraisers, and if so, why don't we hire –

MS. COSTIGAN:

Appraisal reviewers, it is a different job. I mean, it is hard – this is the new world of appraisal. You need to know that the appraisal is correct according to AIA standards, that it has comparables, that it has the mathematics, that it has all the certifications that you need. That is what the appraisal reviewer does. It is much – much of it is clerical, a good deal of it takes significant real estate sense. And then when you get the discrepancies that Legislator Fields is taking about, they do need to go back and forth. But they are not appraiser, and I don't think that we really want them to be or need them to be appraisers. It is a special job.

LEGISLATOR FIELDS:

What page is that on? What page is it on where it says what the duties –

MS. COSTIGAN:

Page four of the letter.

MR. AMPER:

Legislator Bishop, if I am hearing your concern right, you are concerned about the one that disappear through the cracks. If the appraisal review is sufficiently low, you would never hear about it again. It would simply be rejected. You may remedy that situation by building into whatever these remedial steps you are taking, a provision to assert jurisdiction where you see that there is – or a constituent brings to your attention that there is a problem and this Legislature can simply, as they do in the Pine Barrens Commission, assert jurisdiction and call that up for a policy review or evaluation determination, rationale, so that you maintain – so that you prevent losing a parcel that the Legislature in its policy wisdom would prefer to retain. That is a way of getting – at least getting around the problem that you are raising.

MR. ISLES:

If I could just add to that. And just to put – all of this, I think, has to be taken into perspective as a whole package that we are talking about specific items in terms of thresholds, but what the joint executive/legislative panel has recommended are 39 some-odd recommendations, so we are looking at this in total. And specifically to the issue of the what if scenario, as explained by Mr. Amper, is one of the things the committee did talk about, and I see in your resolution it is proposing to put in effect is that there is a two step process with the Legislature, that planning steps include the ability to commence negotiations so the Legislature will have at any point that it wants to the opportunity to delve further into the details of a transaction. To ask what the appraisal is, as we did earlier today with an acquisition, to gain that kind of information to be informed and so forth. The committee has recommended that that occur at least above a million dollars, that it not be optional, but at very least, whatever acquisition that is out there, except for an omnibus acquisition, authorization has to occur here and that gives this body, the Legislature as a whole, the opportunity to step in.

Not to belabor this, but just two other points I would like to make very briefly. It became very clear to me last fall when some of these issues came up that it will impossible, as we have talked about today, to come up with a perfect price. We all know that, it is a subjective judgement. The key thing is process. And I think as we look back on the past acquisitions and the questions that have been raised, all of that can be dealt with with the recommendations, with the process, with the very good thoughts that have come about by this committee today, and I think that is what we have to guard the most.

The second point is that I have been in government now for about 23 years or so, and as was just talked about with the idea of the HMO, I think one thing we have to do with the process is that we have excellent employees in the Real Estate Division and I would never belittle them in any way. But to put all the weight of the County government, the County Legislature, the County Executive on one person's shoulder by saying the appraisal review is this number and we can't go anywhere past that, I don't think that works and I think it is abrogating the authorizing of the Executive and Legislative branch.

CHAIRMAN BISHOP:

We agree with that. We are up to where we are trying to write the specific provision.

MR. ISLES:

Right. So I think the specific in this case is that the committee has anticipated a two step process, the committee has recommended to you, to the Legislature, that there be thresholds of a million dollars and that would then give us the opportunity to provide you with this detailed information and to make the subjective judgement as you've talked about today.

MS. COSTIGAN:

But in terms of your rule, it would be the appraisal. You have to decide whether you want – you started this long digression to say that things would come back to you if the price exceeded the appraisal. Then we pointed out there were two appraisals. So, do you want the lowest, the highest, or maybe the mean, the average, but the appraisal. It has nothing to do with the appraisal review.

CHAIRMAN BISHOP:

Okay, it has nothing to do with the appraisal review. Rule that out.

LEGISLATOR CRECCA:

Right. So we are back to is it the lower appraisal, the higher appraisal –

CHAIRMAN BISHOP:

I would say that it should be the lower because that guards against the Chandler situation, which is unlikely to occur again, but, I mean, when you pass a reform you should at least address the underlying circumstances that lead to the reform in the remedy.

LEGISLATOR CRECCA:

I guess the concern is, is that the one appraisal is grossly above the other.

LEGISLATOR CARACCIOLO:

Then you go with a mean.

MS. COSTIGAN:

I suggest the mean might have some sense to it, because we have just paid for two appraisals. Why would you think –

CHAIRMAN BISHOP:

If I can outvote it, I will go with it. But I think that it is much more logically clear to go with the lower.

LEGISLATOR CRECCA:

I think the mean is –

LEGISLATOR CARACCIOLO:

The mean is clearly, I think, the fairest way to go.

LEGISLATOR CRECCA:

Yeah, I think that makes more sense, too. I don't think that –

CHAIRMAN BISHOP:

How about this idea? The mean invites appraisal shopping. You just keep getting more appraisals to get the mean higher.

LEGISLATOR CARACCIOLO:

You can only have two appraisals.

LEGISLATOR CRECCA:

I don't think someone is going to risk their job by going out –

LEGISLATOR CARACCILO:

The Chairman said you can go appraisal shopping, but you are limited to two appraisals.

CHAIRMAN BISHOP:

Are you?

MS. COSTIGAN:

Are we talking about the median or the mean? I didn't do well in statistics.

LEGISLATOR CARACCILO:

The mean.

CHAIRMAN BISHOP:

The mean is the average.

LEGISLATOR CARACCILO:

Am I right, Mrs. Costigan, that we are talking about only two appraisals –

MS. COSTIGAN:

Two appraisals.

LEGISLATOR CARACCILO:

In any one instance we wouldn't be ordering more than two appraisals.

MS. COSTIGAN:

No, we would not.

CHAIRMAN BISHOP:

But if circumstances change there is no –

MS. COSTIGAN:

And then when it came before you –

LEGISLATOR CARACCILO:

Well, as circumstances change, Mr. Chairman, then you have to evaluate that.

CHAIRMAN BISHOP:

Then the rule, Counsel, I know you are waiting with baited breath for the rule, which Legislator Crecca is so good at articulating.

LEGISLATOR CRECCA:

That someone in an administrative position from the Division of Real Estate is not authorized to pay more than the median appraised value without coming back for legislative approval regardless of the amount of the transaction. Is that what we are talking about? The mean, I'm sorry. Did I say median?

LEGISLATOR CARACCILO:

The mean.

LEGISLATOR CRECCA:

The mean appraised value.

CHAIRMAN BISHOP:

The means is the average?

LEGISLATOR CARACCILO:

The average.

CHAIRMAN BISHOP:

Yeah, okay.

LEGISLATOR FIELDS:

Can I ask a question?

CHAIRMAN BISHOP:

Sure. Do we agree to that, though?

LEGISLATOR FIELDS:

I am not sure yet. I just need to ask Christine, did you say, and I just want to clarify that, if there are two appraisals and it then goes to the review appraiser, if the review appraiser does not agree and rejects it, that ends the acquisition process of that property?

MS. COSTIGAN:

Both of them would have to be rejected.

LEGISLATOR FIELDS:

Both of what?

CHAIRMAN BISHOP:

It would not be eligible for consideration if the mean was rejected –

MS. COSTIGAN:

Well, when you only have one thing, the mean is the thing. So you could be limited by the appraisal that survived, and if you wanted to pay more you would have to come back here. But it would not be terminated because one appraisal was rejected.

CHAIRMAN BISHOP:

So let me place a nefarious –

LEGISLATOR FIELDS:

Wait. Can I just ask that question? If I want to buy, you know, 100 acres in Smithtown and it now – we pass or somebody puts in legislation for the planning steps. They get a survey and they get two appraisals. The two appraisals come into the department. The review appraiser looks at it and rejects both. It then stops even after it has already been passed in the Legislature –

MR. AMPER:

That is where I suggested you are right, that is where I suggested, but the Legislature should build in a provision to assert jurisdiction so that you are entitled to go back and say wait a minute, we don't want to lose this on the basis of that administrative determination.

LEGISLATOR FIELDS:

Did anybody hear that?

LEGISLATOR CRECCA:

We were discussing it, Ginny. And, Dick, if I could just interrupt you, Legislator Fields –

LEGISLATOR FIELDS:

Go ahead.

LEGISLATOR CRECCA:

I think that what Legislator Fields is getting at and what we are discussing here is that if an appraisal is rejected by a reviewer, there is obviously something that at least on its face is flawed or at least in that appraiser's opinion. I still want another appraisal to replace that. I don't think you can proceed on an acquisition on one legitimate appraisal, if I can use that word. If our appraisal reviewer, and I think we are all in consensus, that if a –

CHAIRMAN BISHOP:

If it rejects the lower, then the higher becomes –

LEGISLATOR CRECCA:

And we don't want that. We want two decent appraisals on properties that require two appraisals. So because really you are allowing, you are leaving the door open, then, for an appearance of impropriety in this case. You have a piece of property that one appraisal comes back a million, the other comes back two million. The appraisal review for the million dollar appraisal says you know, the valuation is flawed. You guys go out and buy it, we should be replacing that with another appraisal and see what that comes back at.

CHAIRMAN BISHOP:

Under the circumstance you would be left –

MS. COSTIGAN:

I mean, in the real world you would definitely get that news, that we only had one appraisal left. I think if indeed you want to make it, you get two appraisals, you review two appraisals. If one of them gets bounced after negotiation you then have to go get another appraisal.

LEGISLATOR CRECCA:

It gets bounced because your appraiser reviewer in your own department says that this appraisal is flawed.

MS. COSTIGAN:

Well, the appraisal reviewer would have had to negotiate with the appraiser at that point.

LEGISLATOR CRECCA:

I'm sorry, yes. Okay. I thought you meant negotiate with the seller.

MS. COSTIGAN:

You order the appraisals, you get the two. You read the two, the review the two, you bounce one. Now you want me to go get another appraisal. All you have to consider if you want to mandate that is you have added one big chunk of time as to the process. That new appraiser has to start from scratch. It may take months to do a new appraisal where the appraisal that survives – I mean, the first one may be rejected for very preposterous reasons, and the one that survives may be a very legitimate appraisal on a very good acquisition that is even less than we thought we were going to have to pay, and yet we now have to wait a couple of months to get –

LEGISLATOR CRECCA:

It is a very good point.

MS. COSTIGAN:

I think you would rather have me tell you that one of the appraisals got bounced and you decide what to do if you want, but I wouldn't lock yourself into getting another appraisal.

LEGISLATOR CRECCA:

Okay. I am back to my original rule, then. It was a very good point, but I think that there is a very good point there, too, that we could be losing properties.

CHAIRMAN BISHOP:

Say the rule. Say the rule as if you were Legislative Counsel.

LEGISLATOR CRECCA:

Do you want me to do it or do you want the Director of Real Estate to do it?

CHAIRMAN BISHOP:

I want somebody to do it.

MS. COSTIGAN:

You have been doing very well.

LEGISLATOR CRECCA:

That no one with an administrative position, no one in the Division of Real Estate shall authorize the purchase of property for acquisition for less than the mean appraised value –

MS. COSTIGAN:

More than the mean appraised value.

LEGISLATOR CRECCA:

More than the mean appraised value without prior legislative approval. And everything else that is in here covers us because it is coming back to us. We've got the appraisals before us, we now have Real Estate coming back before us. We have set up all these other checks and balances in the system, and that is really what we are doing here to prevent –

CHAIRMAN BISHOP:

I think the second sentence, I think you should cut it off at more than mean appraised value period. However, the Legislature reserves the right to go above that amount with, you know, after a determination on the record as to reasons –

LEGISLATOR CRECCA:

Well, no. Without coming back for legislative approval. And if you want to add, then put and the Legislature shall – you can require that the Legislature has to put their reasons for paying more than appraised value –

CHAIRMAN BISHOP:

That is what I am saying. That is what I am trying to get at. It is an open process and we have to say it –

LEGISLATOR CRECCA:

Paul, you can just put that there has to be a record made as to the reasons, correct, as to the reasons –

CHAIRMAN BISHOP:

Where are you going? The whole land system is teetering.

MR. AMPER:

But you have it. You reserve the right to establish the value – for valuation determination and rationale. It is that it comes back to you and you, (a), establish the value, and (b), determine the rationale for having done so. You've got it.

CHAIRMAN BISHOP:

I think that is how you should say it. Right. Okay.

MR. GRIER:

Just one comment with regard to the record that you make. As far as the actual dollar value, that is something that should be discussed in executive session, but the reasons for going above the appraised value you can put on the record without actually stating a dollar figure. So you have the actual justification and the reasons why you are doing so.

CHAIRMAN BISHOP:

Isn't this coming in at the end of the negotiation? Why can't we go on the record? I don't like secret processes.

LEGISLATOR CRECCA:

I guess their fear is, is that – but at that point does it really matter if we are determining a value to go above appraised value? Does it really matter if we do that open on the record? At that point it is what it is. I mean, if we offer – I'm asking you. Or does that impinge your ability to –

MR. GRIER:

I can't think of a precise example, but there may be instances where it may.

LEGISLATOR CRECCA:

Well, then all you have to do is, Counsel just needs to put in the statute, just put that – it doesn't have to put the price has to be in there, but the rationale for paying above the appraised value must be stated to the public on record. Would that cover us, Paul? We would have the option either way.

MR. SABATINO:

What I envisioned was a procedural motion on the floor. It can go either way. I mean, I see the case to go in either direction. The answer is you just put it in a procedural motion on the record.

CHAIRMAN BISHOP:

So that is that issue. We are moving on finally. Okay. We have dealt with probably the thorniest issue out there on this. Now, in the reform bill, in 1388, you have a merging of like – 1360 through 1389 –

MR. SABATINO:

There were 30 recommendations.

CHAIRMAN BISHOP:

Right.

MR. SABATINO:

There were 33 all together. Three were dealt with by local laws and charter laws at the County Executive –

CHAIRMAN BISHOP:

Which are those?

MR. SABATINO:

So there were 30 that were left. Out of the 30, at the last meeting you rejected eight. That reduced it to 22. Of that 22, three were – you were postponing or delaying your decision. So there is 22 out of the 30 items –

CHAIRMAN BISHOP:

So let's go through those that were deferred, the three that were deferred. The first one was 1362, implement Real Estate Division reform appraisal rotation. I think, Mr. Isles, we were waiting for you and the Real Estate Division to have – I mean you and the County Attorney to get back to us. Is that correct? Do you have notes on that?

MR. SABATINO:

Yes. The reason it was delayed was you wanted to give Mr. Isles an opportunity to get back.

CHAIRMAN BISHOP:

Now you are back.

MR. ISLES:

This is the appraiser rotation?

CHAIRMAN BISHOP:

Yes.

MR. ISLES:

We are back but we are not ready.

CHAIRMAN BISHOP:

You have to be ready because we have to do this today.

MS. COSTIGAN:

There were two different – this is the strict rotation, the suggestion of going to the bottom of the list and starting at the top again.

CHAIRMAN BISHOP:

Right. The wheel.

MS. COSTIGAN:

In this instance the comments of the Nature Conservancy are cogent, but to summarize them, there may be instances in which some appraisers have certifications and abilities that are more

apt than others. And to make us mechanically move from the top of the list to the bottom will not serve the County's interest.

LEGISLATOR CRECCA:

I agree, too. I mean, even now when we have appraisals done, you know, I order then privately, we use certain appraisers for certain types of things or because a property is in a certain place or a thing like that. There should be – I have no problem with the general policy, though, that they will rotate the use of appraisers.

CHAIRMAN BISHOP:

All right. Legislator Fields.

LEGISLATOR FIELDS:

How do we prevent someone from picking a favorite, you know, having some kind of a business deal with, you know, some kind of impropriety, then.

MS. COSTIGAN:

Well, we try and distribute the appraisals. Of course, you distribute them by number and you fail because some of them are bigger than others. You know, you never know that you are going to give an equal amount of work even if you did it mechanically.

LEGISLATOR FIELDS:

I am not even saying equal.

CHAIRMAN BISHOP:

Why don't we do this. I think a good protection, and it doesn't even have to be adopted in the resolution but we will make it a rule, is at the end of the year why don't you submit to the Legislature the list of appraisers used and how much they have, you know, how much remuneration they've received. So you see appraisal (a) has eight million dollars worth of work and (c) has two dollars, we would ask why that happened and you could provide –

LEGISLATOR CARACCIOLO:

Mr. Chairman. Two problems with that. One, it is after the fact, and two, if you look at the recent history, you will see a lot of the same appraisers being used for a variety of appraisals, a range of appraisals. I think maybe the department can come up and identify which appraisers are suited for acquisitions of a million dollars or less and which appraisers are suitable from one to five million. I mean, you have people who have specialty in industrial, commercial, residential, farmland. It shouldn't be too hard to come up with a color list of saying who the people you would prefer to use based on your many years of experience.

MS. COSTIGAN:

I think we can do that, and particularly when you are talking with east end farmland acquisitions and you ask somebody in the Islip area to do that, they may not be comfortable with it. So, yes, I think we can. We don't have those –

LEGISLATOR CARACCIOLO:

Do it by specialty.

LEGISLATOR CRECCA:

And the other thing, too, is that if they end up using an appraiser and that appraiser takes too

long to do an appraisal and stuff like that, they have to have – I am not arguing with you. I agree with what you are saying, but you have to let them administer some things as department heads. I mean, you have to put some trust in your employees. If the Director of Real Estate is using an appraiser and the last two appraisals she gave this person, they are taking 12 weeks instead of six weeks, I am just being hypothetical, you know what? She may not want to use them again, and I don't have a problem with that.

CHAIRMAN BISHOP:

Is it in your control, not control, can you obtain the information that I was seeking upon request?

MS. COSTIGAN:

Yes.

CHAIRMAN BISHOP:

In other words, you could tell me you have given the Isles appraisal company \$500,000 worth of work?

MS. COSTIGAN:

Yes.

CHAIRMAN BISHOP:

Okay. So upon request you will provide that.

MS. COSTIGAN:

What we were imagining, and we are in the midst of redoing the whole procedures which are this thick, was first of all calling the appraisers that are on our list in and sort of reading them riot act and say if you don't – you know, you are going to be picked to some extent based on your expertise, and here, fill this out and tell us what you think your expertise is. Some of them may very well not even include themselves for, you know, east end acquisitions.

CHAIRMAN BISHOP:

I think we want to leave you the discretion but we have the information to see if something is not right.

MS. COSTIGAN:

That's fine.

CHAIRMAN BISHOP:

So we are rejecting that by zero to five, is that correct? 1362. I am doing the three matters that were deferred, three resolutions that were deferred. That was the first one. The next one, if I am not mistaken, is 1382. Paul, what is 1382?

MR. SABATINO:

Appraised value limitation.

CHAIRMAN BISHOP:

Okay, so we just wrote that rule. Fine. So we are going to reject 1382 and implement it, roll it in as amended. That is, I guess, the way to say it. All right. 1385.

MR. SABATINO:

1385 was the charitable donation clause. That was discussed earlier.

CHAIRMAN BISHOP:

Now, we have had exciting testimony on that as well. What is the committee's wish on that? I would urge that we not adopt this.

LEGISLATOR CRECCA:

Correct. My feeling is this. Look, the bottom line is, as we all know what the rules are with the IRS, we all know what the situation is, and we are going to have to deal with it on a case by case basis, but I don't think we should adopt it as a given rule. I think that we are, again, tying our hands on something that we may not want to tie our hands on. There may be a specific instance where it can be applied in a way that we find acceptable, not as a County or as a legislative body. That is not something, by the way, that the Real Estate Department would negotiate on your own, is it, unless it was below –

MS. COSTIGAN:

The only pertinence of that is that clause – the clause including that form has to be in the contract. So that is where the seller's lawyers might say we are going to put that in the contract – is that okay we are going to put that in the contract. Somebody has to say yes or no.

LEGISLATOR FIELDS:

No, I think in 1385 it says resolved that when a bargain sale is disallowed pursuant to Suffolk County policy there shall not be any contract provision authorizing a bargain sale nor shall the County of Suffolk execute any Internal Revenue Service forms on a seller's behalf regarding a bargain sale.

LEGISLATOR CRECCA:

Correct. And Legislator Bishop and I, I think, are of the position that we don't want to limit our ability to use that tool, and that is our position. What I am asking Real Estate is you are saying that Real Estate could negotiate that into a contract and use it as part of a sale. But if it was over appraised value, you would have to come back to us anyway, correct?

MS. COSTIGAN:

That's right.

LEGISLATOR CRECCA:

Under our own rules. So if the appraised value or the mean appraised value or median, whatever it was, is, you know, \$800,000 and you want to give them another \$200,000 as a charitable contribution, you would have to come back to us because the overall value would be a million?

CHAIRMAN BISHOP:

No, I don't think so. We are not giving the value. We're not. The point of the earlier testimony is, is that it is a matter between the seller and the Internal Review Service.

LEGISLATOR CRECCA:

Correct. Okay.

CHAIRMAN BISHOP:

And all we are simply doing by signing the form is acknowledging that the property was transferred.

MS. COSTIGAN:

That is exactly what it says, yes.

LEGISLATOR CRECCA:

I apologize. And I agree still with my position that we should exclude it, then.

CHAIRMAN BISHOP:

I agree with his position also, and my own.

LEGISLATOR CRECCA:

With what the Chairman said, and that is that we should not include this as part of the reforms.

LEGISLATOR CARACCIOLO:

Let me then raise this specter. This was a recommendation. How do you feel given what you have now learned in addition to what you knew at the time it was adopted, which way would you come down on this, Tom?

MR. ISLES:

Well, I would agree with the idea of perhaps withdrawing this resolution. It was a recommendation of the committee to be considered. All the recommendations of the committee were open for discussion. We did hear testimony today. I think that was interesting and I would like to discuss it with the County Attorney further, and I think the comment that perhaps keeping the door open that if the Legislature, if the County Executive, decides that it is a prudent thing to do, a good thing to do for land preservation, to not close the door on it.

Clearly, the recommendation of the panel was that we have to be very careful on this and certainly the intent was not to do anything that would be construed in any manner as being fraudulent or wrong or anything of that nature. So, I think there has been certainly adequate discussion today and I think keeping the door open to give us that option in the future with what we have learned –

LEGISLATOR CARACCIOLO:

All right, but specific to that concern that you just mentioned the committee had, where would we run into danger of doing something like that, fraud and all the other things you mentioned.

MR. ISLES:

Well, I think everything – here, again, you have to look at the whole package of the recommendations. There is additional disclosure requirements we are talking about in this report. There are different procedures we are talking about, and there is much more legislative oversight than what we saw in the past. So where a lot of discretion was given to staff people, to the Director of Real Estate, to the department head and so forth, we are now talking about two appraisals. We are talking about appraisal review, which we didn't always have in the past couple of years, and most importantly, legislative oversight.

So, think we have done belt and suspenders several times over and I think the point about not over reaching and boxing ourselves into a corner where there may be an option in the future to do something that makes sense for the public, I think here again we have it in the report as a guide, as a warning to be careful on, but to step forward and to be able to use it if it is warranted in the future.

LEGISLATOR CARACCIOLO:

Is there anything that is before us that even came out of the Commission report as recommendations that you would add to, that maybe in the committee or the commission process you didn't prevail?

MR. ISLES:

No. The only thing I would say about the recommendations which I made at the last meeting two weeks ago is that we put into effect a lot of the administrative items already within the department with Ms. Costigan coming on board. We are in that transition of the dual appraisals and things like that. So we don't necessarily feel that all this needs to be done legislatively, but we respect the prerogative of the Legislature to do so if you want to. Other than that, I have no other, you know.

LEGISLATOR CARACCIOLO:

Same question, quickly, to both the Director and the Assistant Director of Real Estate – Deputy Director. Is there anything that we are about to do that if you had your way we should consider an addition to what we are about to do? Jim?

MR. BURKE:

I don't think in addition. I think one of the biggest points is that the two step approval process is going to eliminate a lot of the – I think the two step approval process that is an ongoing procedure now is going to address a lot of the problems that may have occurred. I think that in and of itself is going to address 95% of the problems that might be faced from our department and in the purchasing of any of the properties. You'll know the final authorization, you'll know the price that we are paying, you'll know the appraisals, and so I think when you go through planning steps we do the negotiations, we get the appraisals, and we are going to come back and here is the deal, give us final approval. I think just for those two steps alone it is going to address, as I said -- probably 99% of the issues that might come up in any acquisition.

LEGISLATOR CARACCIOLO:

Christine, there is nothing you would have us add?

MS. COSTIGAN:

There is nothing I would add. There are some changes, but no additions.

CHAIRMAN BISHOP:

All right. If you have reviewed the omnibus measure and you have specific suggestions –

LEGISLATOR CRECCA:

I have a couple of very quick – I think this are all just quick technical questions and some suggestions.

CHAIRMAN BISHOP:

Yes. Go ahead.

LEGISLATOR CRECCA:

In the first resolved – I want to go right beginning from page one, the first resolved clause. I just have a question and I think what we are doing there is, are we saying that all appraisers that we use from now on must be general real estate appraisers?

MS. COSTIGAN:

My same comment to the same thing is I think what you mean to say there is that any appraisal firm. Many firms use appraisers in the field to gather data who are not certified general appraisers, and they are working for us at the time, so I think we need to say there that any appraisal firm or entity commissioned by the County, they are not authorized by us, they are commissioned by us, must –

LEGISLATOR CRECCA:

It doesn't matter anyway. We are going to make changes.

MS. COSTIGAN:

We want the appraisal reports signed by a general certified appraiser, that is what we really want.

LEGISLATOR CRECCA:

Yeah, I think you can say any appraiser commissioned by the County or on the official list or whatever you want to call it there. But my point there is are they all going to be general real estate appraisers. There are three levels.

MS. COSTIGAN:

Yes.

LEGISLATOR CRECCA:

Why are we spelling out the three levels, just to make it clear in the statute? I don't think it is necessary.

MS. COSTIGAN:

They are all general.

LEGISLATOR CRECCA:

Right. So what I am saying, we can just say that they will be New York State certified general real estate appraisers. We don't need to lay out what – we don't need to lay out what the State licensed real estate appraiser is, State certified, residential and all of that, because we are using general. We are going to the highest level there is anyway. If you want to spell out what that level requires, that's fine, but I think it is enough just to –

LEGISLATOR CARACCILO:

So you would have (c) and not (a) and (b).

LEGISLATOR CRECCA:

Yes, I would just eliminate (a) and –

MS. COSTIGAN:

You don't even need (c). I mean, it is a defined term. I mean, I think what you want to say that any appraisal report signed, you know, has to be signed by a general licensed appraiser.

MR. ISLES:

Yes, because the standards might change over time.

LEGISLATOR CRECCA:

Right. They may go up or whatever. I think both of those suggestions are good. If I can make a

motion to the committee that we amend it so that it incorporates those changes that were just discussed by myself and the Director of Real Estate. Is there a consensus on that? Okay.

The next thing I have is on page two under appraiser standards. Again, and I don't know, I would ask Legislative Counsel. My concern is I am sure the intent here is that it is all appraisal reports used by the County after the effective date of this resolution. My concern is I don't want to slow down deals that are already in the works where we have already had the appraisals commissioned or already had the appraisals done. So, if we can on the fifth resolved clause specifically, if we can make that shall apply on or after – commissioned on or after the effective date of this resolution.

MR. SABATINO:

The only issue with that is, do you want that to apply to all the clauses? Because if you put that clause in for just the one then you are implying that all of the other ones are retroactive.

LEGISLATOR CRECCA:

Well, it is in – I agree. That is my concern, it is in the second resolved clause that way but it is not in any of the other ones. Maybe what we could do is just put one –

CHAIRMAN BISHOP:

A blanket.

LEGISLATOR CRECCA:

A blanket resolved clause that makes everything in this thing effective hereinafter.

LEGISLATOR CARACCILOLO:

The question I have, then, is what are we don't in the interim? What direction does the Division have in the interim?

LEGISLATOR CRECCA:

What they are doing already.

MS. COSTIGAN:

Yeah. I mean, right now we are following the recommendations of this report. As we go along I will tell you if there is anything that – we are already having general appraisers, for instance –

LEGISLATOR CARACCILOLO:

As long as that has been said.

LEGISLATOR CRECCA:

Counsel, on that one do you – I just want to make sure that he understands. Can we make –

MR. SABATINO:

I am just taking notes. I am a note taker on this, okay, I am writing it down. It will be incorporated.

LEGISLATOR CRECCA:

Oh, okay. I was asking your opinion on it, if that was a proper way to handle it, to make one effective clause for an effective date. Is that all right?

MR. SABATINO:

It is not my decision. The group –

CHAIRMAN BISHOP:

Well, what is the argument against it?

MR. SABATINO:

There is no argument. There is no argument for or against. I am going to do what you asked for. I am writing notes. I mean, I don't know what else I can do. I am writing the notes.

LEGISLATOR CRECCA:

Okay. If you have an opinion as to it, I would like to hear the opinion. I mean, that is why I am asking you.

MS. COSTIGAN:

Mr. Crecca, are you going to leave page two? Do you want to weave on the pages or do you want to – how do you want to do this?

LEGISLATOR CRECCA:

I am moving on. I am going on to page three but under the category Appraiser Certification, which starts on page two. My only question on that is we have Real Estate distributing appraisal reports. I just – to the County Executive and the Clerk of the Legislature. I just want to take out the words for distribution to each member of the County Legislature.

CHAIRMAN BISHOP:

Where one is this?

LEGISLATOR CRECCA:

On the bottom of page two, into page three.

CHAIRMAN BISHOP:

Only appraisers authorized by the County Legislature can perform work by the County in connection with the acquisition and proof of certification –

LEGISLATOR CRECCA:

Well, their proof of certification, certainly the department head is going to look at that. If you want to have –

CHAIRMAN BISHOP:

The Clerk of the County Legislature simply means they file it and it is on our meeting notice. There are listing of filings that the Clerk has that you can request. It doesn't mean that they have to make a copy for you.

MS. COSTIGAN:

On the same point. It appears in number two on page two, it is resolution 1370-02, is duplicative of the one you just discussed. I mean, if there is a list that is to be provided annually, is this one that you have just discussed, 1374-02, separate and different from that, that filing?

LEGISLATOR CRECCA:

I think that they say a little bit of different things, but they probably could be put together into one resolved clause. It would probably make sense that they be together. I guess for distribution to each member of the County Legislature doesn't mean they have to be distributed

to us, Paul?

MR. SABATINO:

No, they have to be distributed. That is the whole point.

LEGISLATOR CRECCA:

That is what I am saying. Can we just have it –

CHAIRMAN BISHOP:

It is on file with the Clerk.

MR. SABATINO:

The reason – I word all resolutions this way because what happens is Legislators always scream and holler at committee meetings they never got the documents. So, unless you say to distribute it, you are not going to get them. It is your choice, I mean, you don't have to do it.

LEGISLATOR CRECCA:

Yeah, I mean, you are talking about – I am just asking that we not have it distributed, but if that is what the committee wants. I just think it is 18 Legislators –

CHAIRMAN BISHOP:

I want my copy.

LEGISLATOR FIELDS:

So would I. I actually would like a copy.

LEGISLATOR CRECCA:

Of the individual Real Estate guy's certifications. That is a lot of trees.

MR. ISLES:

I just want to add one point. And not to confuse it, but I.R. 1370 and I.R. 1374, one is appraiser qualifications, one is appraiser certification. Just so you know the intent of the joint panel, it was intended that on a more frequent basis we would present to you, the Legislature, the list of appraisers from which we would hire and commission appraisers. The last time it was done was 1997. We suggest that it be done at least every two years. The reason, then, for the certification was that annually further information would be provided to you.

If the process or the intent is now to make it all happen every year, which I think part of this does talk about that, then one voids out the other. So, basically what it is sayings is once a year we bring to you the list, the qualifications, and experience and so forth.

LEGISLATOR CRECCA:

Right. So if we can combine the two of them into one resolved clause, it might be a little more efficient.

CHAIRMAN BISHOP:

So the Legislature approves the list annually and we get the qualifications.

LEGISLATOR FIELDS:

And each of the Legislators. Keep that in.

MS. COSTIGAN:

On that same page two, the one above it, Appraisal Standards. What you just voted on before pertains to this in that – it is 1369-02, and it says that all appraisals shall say contain – you know, that they are conformed to the uniform standards. (A), that is already a requirement of appraisals by any general appraiser, and (b), that would be a reason to reject appraisal by the appraiser reviewer. So, if you want to put it in.

LEGISLATOR CRECCA:

I had a question on 1360 on page 3, which is I.R. 1360-02 there, the tenth resolved clause. And I know we did discuss this and I remember that there was – I think this might even be one of the ones I disagree with. But we were saying are we always required 20% of the upset amount?

MS. COSTIGAN:

What has been required is 20% of the purchase amount. The reason for this – the reason is that people would get there, they wouldn't know how high they would bid, so they wouldn't know how big a check to bring. And the theory here was to say okay, you will have certitude. If you know you want that property, now you know what the check is.

On reflection, I am not recommending this because why should – what if they don't go through with the sale? Why shouldn't we get more but for the down payment.

LEGISLATOR CRECCA:

Here is my suggestion.

MS. COSTIGAN:

We end up with a big bag of cash, that's the problem, that we have to tote back.

LEGISLATOR CRECCA:

I think that what we should do is, and I think I argued this before so I am not going to belabor it, but, you know, I think that once a year we should have to approve the auction rules, whatever they be. I just want to reiterate it rather than tie their hands in the sense of setting what I think, again, we are making County law here on something that really is an administrative policy. For example, technology may be that people don't have to bring certified funds any more. They could come with a special card, a smart card. If I can finish, Mr. Chairman. Then what is going to happen is they are going to have to come back in and change the statute just to be able to take in new technology or whatever the case be. You know, I think that if we approve on an annual basis the rules, we have our check and balance there. But to start talking about exactly certified, uncertified funds, what percentage and all that, I think we have to allow, I hate to say this, but allow the lawyers to do their job or the department heads.

LEGISLATOR FIELDS:

But doesn't this stop someone from doing, you know, like what happened with the Toussie incidence? Doesn't this particular tenth resolved stop that from occurring?

LEGISLATOR CARACCILOLO:

Toussie didn't close for years. That was the issue with Toussie.

MS. COSTIGAN:

We would have had more money by 20% of the purchase price. The upset price is the beginning of the bidding, so we are giving them 20% of the lowest amount.

LEGISLATOR CARACCILO:

Right. And your recommendation would be that we take 20% of the purchase price.

MS. COSTIGAN:

What we have always done is 20% of the purchase price. This was initially thought to be an improvement, but on reflection, I think it is debatable.

LEGISLATOR FIELDS:

Why did we change it?

LEGISLATOR CRECCA:

We changed it so that more people could bid on property without having to worry about putting down the purchase price, and they'd have to put down possibly less than the property actually went for, less than the 20% that is normally put.

CHAIRMAN BISHOP:

That's immediate, right? That is immediate at the auction?

LEGISLATOR CRECCA:

In other words, you have to come up with the cash at the auction.

CHAIRMAN BISHOP:

Here's the theory. You come with 20 – let's use hundred thousand. You come with \$20,000 and the bidding goes to 110 and you still want to bid but you've only brought 20,000. Then you can't – can no longer –

MS. COSTIGAN:

You have too much. It is only 20% of the purchase price or the upset price.

CHAIRMAN BISHOP:

Twenty percent of 100,000 is 20,000. That is what you came with. Now the bidding goes to 110. You still want to participate, but you are only holding your 20,000, you have to drop out now. If you go with the upset price, you can go with the flow of the auction because you have the amount that allows you to participate.

LEGISLATOR CARACCILO:

Mr. Chairman, I appreciate your –

CHAIRMAN BISHOP:

It is kind of a more benevolent to do business.

LEGISLATOR CARACCILO:

But has that been an issue, Jim, at auctions?

CHAIRMAN BISHOP:

It is probably not an issue either way.

MR. BURKE:

It has been to some degree. Not a great degree, but it has been to some degree.

LEGISLATOR CARACCILO:

So we should be more liberal and go with upset price as opposed to purchase price.

MR. BURKE:

The concern is they would have that much less down payment.

CHAIRMAN BISHOP:

Her point is that if you go with the tougher standard, you get more cash.

LEGISLATOR CRECCA:

Yeah, if they back out of the deal. Plus we're –

LEGISLATOR FIELDS:

An important question, though, is how many people give you a percentage of a down payment and then drop out and say you know what, I don't think I really do want to buy this. Do you have many of those.

MR. BURKE:

We have a certain amount.

MS. COSTIGAN:

Yes.

LEGISLATOR FIELDS:

So wouldn't you have more of those if you are asking only for 20% of – so you could very possibly lose a lot of money by doing the –

LEGISLATOR CRECCA:

Upset price. Again, guys, I think we are micromanaging –

CHAIRMAN BISHOP:

Well, we are micromanaging the bill now because we discussed this last time and we are going back into –

LEGISLATOR CRECCA:

We are micromanaging –

LEGISLATOR CARACCILO:

Let's go to the experts and the people who have to work this program. Just tell us what you prefer, upset or purchase.

LEGISLATOR FIELDS:

It is not even what they prefer. What is the best thing for the County?

LEGISLATOR CRECCA:

Okay. I am going to make a motion –

LEGISLATOR CARACCILO:

Wait a minute. Let me just hear what Tom has to say.

MR. BURKE:

The other issue is handling the money. Twenty percent of the upset price removed the issue of handling the money, which is a good thing, a very positive thing. There was a security issue there which was raised the last time, and certainly now it will –

LEGISLATOR CARACCILO:

But when you say security issues, are we talking about something that has really been a problem? Have we ever had a heist?

MR. BURKE:

For some reason or another our Police Department maybe just became aware of the amount of money that we handle. At the last auction there was a dramatic increase in security.

LEGISLATOR CARACCILO:

Tom – I mean, Jim, what is the cost? I mean, auctions are held semiannually?

MR. ISLES:

Or annually, and that is really, Christine just points out to me, a lot of this is really moot at this point.

LEGISLATOR CARACCILO:

Right.

MR. ISLES:

We are having an auction on May 15th and 16th. We will not have another one probably for a year, so the current auction is already up and running and it is being done in accordance with the rules that are posted with the Legislature. We can't change this unless we present this to you, and you have 60 days to –

LEGISLATOR CARACCILO:

Okay. So under the current rules what is the procedure?

MR. ISLES:

On current rules, the 20% of –

LEGISLATOR CARACCILO:

Of purchase price.

MR. ISLES:

Just so you know, the purpose of the committee was to try to level the playing field from the big guys to the little guys. But here, again, you control this anyway because we can't change the rules unless we post them with you, and we are not going to do an auction for another year anyway.

LEGISLATOR CARACCILO:

Okay.

LEGISLATOR CRECCA:

My motion is, and then it can be rejected, but I just ask that it be voted on. My motion is, is that we do away with this provision and that we replace it with that the auction rules will be approved by the Legislature.

CHAIRMAN BISHOP:

The whole enchilada, okay.

LEGISLATOR CARACCILO:

I would agree with that.

CHAIRMAN BISHOP:

Who is in favor? Whose against? I am against.

LEGISLATOR COOPER:

In favor.

CHAIRMAN BISHOP:

Three in favor, that's enough. Okay. Four to one. I lose. Ten is removed.

LEGISLATOR CRECCA:

On page four, on IR 1384, I am not going to redebate this issue because we debated this. I just wanted to know if there was better language to use than in the real estate field. And that is not Counsel's fault. That was what we agreed to. Page four, IR 1384-02. I think you and I voted against this provision, but I am not – I don't want to redebate the provision, I just thought I would ask Counsel or anybody else if they have a suggestion.

MR. ISLES:

None at this point.

CHAIRMAN BISHOP:

So, you don't have one, we don't have one, we have to move on. I agree with you, though.

LEGISLATOR CRECCA:

Okay.

CHAIRMAN BISHOP:

That's it?

LEGISLATOR CRECCA:

I can make a motion to do away with this provision, but I don't think that's –

CHAIRMAN BISHOP:

All right. I vote in favor of the three of four.

LEGISLATOR CRECCA:

Okay, there you go.

CHAIRMAN BISHOP:

Is that it?

LEGISLATOR CRECCA:

I am just looking. I had a question on – did we already address 1382 on page six? Yeah, we did. That is coming out now, correct?

CHAIRMAN BISHOP:

1382 is what we labored so intensively over.

LEGISLATOR CRECCA:

So that is going to be corrected.

CHAIRMAN BISHOP:

Okay, that is going to be changed.

LEGISLATOR CARACCILOLO:

Mr. Chairman. Just quickly, going back to the 14th resolved clause. Counsel, the way that is written, is there a possibility that someone could be excluded who is not in a Civil Service position and is not in a management exempt position? Are there any other categories of personnel that could somehow fall through the crack of the intent of this resolved clause?

MR. SABATINO:

The recommendation that was made by Commission was limited to the Real Estate Division, so that automatically excludes the rest of the universe. But within the Division of Real Estate the only other category of people, but I didn't think there was a desire to go there, was if there are any laborers. They are in the unclassified. They don't take competitive Civil Service exams.

LEGISLATOR CARACCILOLO:

There is no one, Tom, in your department, since the Division of Real Estate is under your jurisdiction, that this would not be applicable to? That, in other words, you told us you had that one individual on your staff –

MR. ISLES:

It is everybody, yes. The only other point I wanted to make is I believe the County Attorney's Office spoke at the last meeting that the County Attorney's Office has a policy similar to this. They do have some sort of exemption process whereby if an attorney is doing a closing for a family member they can go to the department head or something. I don't know if that is something you want to consider here. It may be making it consistent with County Attorney's operation.

CHAIRMAN BISHOP:

Let's not, and see if somebody comes forward and says this is a great burden upon them. Is somebody coming forward?

LEGISLATOR CARACCILOLO:

You don't have a large family, Jim, do you?

LEGISLATOR CRECCA:

Again, on page six. Whatever changes we make to 1382 that we have already discussed and approved, we should also make to joint acquisitions also, because it is the same thing. It will have to come back to us if it is over appraised value. Is everybody okay with that? I think in concept we've already agreed to that. Right now –

CHAIRMAN BISHOP:

We have to slow down. Page six, the 23rd resolved clause.

LEGISLATOR CRECCA:

The 22nd resolved clause we've already said what we want the policy to be. We are replacing it with what we discussed before. Whatever we did for the 22nd resolved we should also do consistently with the 23rd. It really doesn't matter whether it is a – the County is buying it by themselves or by municipality. The same rules should apply, that is my point. That is, is that if it is going to be over appraised value it has got to come back to the Legislature.

LEGISLATOR CARACCILOLO:

That raises an issue in terms of under some of our former programs land partnership, who drives the train?

LEGISLATOR CRECCA:

We do, because it has to come back to the Legislature for approval under our own rules that we just set up.

CHAIRMAN BISHOP:

We made a specific provision that says that we are the –

LEGISLATOR CARACCILOLO:

Okay. So on all acquisitions where we partner with either municipality or an outside agency like Peconic or Nature, we lead and all of these procedures are applicable.

MR. ISLES:

Absolutely. We relinquish no authority or legislative authority to Executive authority. We may participate and we have done that and it has worked out very well, but we are not giving anything up and we are recommending that that not change.

CHAIRMAN BISHOP:

On the one you are on, the 23rd. You are saying that in a situation where we have a partnership, let's say it is with The Nature Conservancy. And there is going to be – the sale price is above the appraised value, mean, there is currently, I believe under this legislation there would be a prohibition against even The Nature Conservancy, the outside entity paying more than the mean –

LEGISLATOR CRECCA:

Without legislative approval. Yes, I agree with that, that we can't pay –

LEGISLATOR CARACCILOLO:

Not right now, Tom, is there? Up to now? You made a statement.

CHAIRMAN BISHOP:

In this legislation.

LEGISLATOR CARACCILOLO:

In this legislation. But up to now that was not the case, right? So we are codifying –

LEGISLATOR CRECCA:

I am saying I agree to the 23rd resolved clause, that we should not pay more than appraised value even with the municipality or the partnership person's monies or value given. Again, it would have to come back to the Legislature for approval.

MR. ISLES:

The only comment I would like to make on that is that the intent of the joint panel was that the public agencies not pay more than market value. If a private entity wants to come in and put in private money for their – whatever reasons – The Nature Conservancy, that was something that wasn't –

LEGISLATOR CRECCA:

I still want it to come back for legislative approval.

MR. ISLES:

That's fine.

LEGISLATOR CRECCA:

Because I mean, granted, again, better it has that extra level of scrutiny in a case like that.

MR. ISLES:

So long as it is not prohibited from happening.

LEGISLATOR CRECCA:

Correct, and we are not. I think we are just incorporating those two provisions, the 22nd and the 23rd resolved clause so that the rule is applied uniformly.

MS. COSTIGAN:

Mr. Chairman. Can we go back to 16? The 16th we skated over, which is the procedure manual. You asked for a procedure manual to be created and maintained by the Division. I have been in the midst of updating the existing manual. It is 1,000 pages. I don't think I can do it in 90 days.

LEGISLATOR CRECCA:

How much time do you think you can reasonably do it in, six months?

MS. COSTIGAN:

Yes, six months certainly. I mean, I would be glad to give it to you in pieces if you want.

CHAIRMAN BISHOP:

No, we don't want pieces. In fact, make sure there is a summary.

LEGISLATOR CRECCA:

I don't even know if I want it if it is a 1,000 page manual.

MS. COSTIGAN:

No, no, I am hoping to get it down considerably from that.

CHAIRMAN BISHOP:

180 days.

MS. COSTIGAN:

That is a nice number.

CHAIRMAN BISHOP:

Page four, 16th resolved clause, 180 days.

LEGISLATOR CRECCA:

And now I am jumping to page seven, we had just finished six. On the 1022-02, the 24th resolved clause. On the filing of appraisals we have on I guess half, three-quarters of the way down the page, that it has to be filed with this committee within two days after the filing of a resolution. I just think that we should make that, you know –

CHAIRMAN BISHOP:

What does that mean?

LEGISLATOR CRECCA:

I am not too sure what this means, and I apologize. I read this and I am not sure what the purpose of this resolved clause is and I know we discussed it before, and again, I apologize. Counsel, can you explain what this – in two sentences or less, what this does?

MR. SABATINO:

This is how you are going to implement your new program of legislative review. You have to get the appraisals first and then you are going through –

CHAIRMAN BISHOP:

Right. Because – remember we are doing a new process now where there is – where they can not only get the planning steps, but they actually enter a negotiation. This is at the point where it comes back after all that is over. That is why it is two days. It should be simultaneous, frankly, but, you know.

LEGISLATOR CRECCA:

But the resolutions could be filed by a Legislator or something like that. Is that what the idea is? I just was proposing that we change it to five days. Is that all right?

MR. SABATINO:

The only reason I put the two days in is because the criticism was that the process was being slowed down, so I was trying to make things –

LEGISLATOR CRECCA:

Okay.

LEGISLATOR CARACCILOLO:

The question I then have is, Paul, this would preclude an authorizing resolution coming to the Legislature via CN?

MR. SABATINO:

No. This just means – it is not a question of getting into – the idea was that if you were going to go through this process of having review you would want to have the information as quickly as possible because the criticism against you has been that these reforms are delaying the overall program.

LEGISLATOR CARACCILOLO:

Okay, but that requires coming before a legislative committee. What I am saying – I know what the provision says and I agree it makes sense. The example I would use again is Shadmoor. Could you have a situation where the Legislature authorizes planning steps, which it didn't do in

that case but let's say it did. Now you have a situation where we go through the process of appraisals and all the criteria set forth here is met and now someone says well, we have to make this acquisition before date certain or we lose it because the property owner will not wait until you have a committee meeting and you go through your regular legislative cycle. My question is, does this preclude short circuit vis-à-vis a CN coming forward under those circumstances?

MR. SABATINO:

No.

LEGISLATOR CARACCILOLO:

Okay. It has to come back to a duly recognized committee of the Legislature. It can't just come in –

MR. SABATINO:

You asked me does this short circuit it. The answer is no, it doesn't short circuit it.

LEGISLATOR CRECCA:

Mike, I am getting to your point next.

MR. SABATINO:

The County Executive under the County Charter can come in with a CN. This is a resolution, you can waive all of these requirements in the Certificate of Necessity. You asked me does it short circuit, the answer is no.

LEGISLATOR CRECCA:

So maybe just change it to two business days if that seems to be the consensus of the committee.

MS. COSTIGAN:

I would point out that we have no idea when the resolution is filed, so we are bound to fail. We don't even hear about the resolution.

LEGISLATOR CRECCA:

How would they know that a Legislature filed a resolution for authorization? That is a good question.

MR. SABATINO:

The point I thought would be that an Executive resolution obviously wouldn't be a problem, but on a legislative resolution the Legislator would contact the Division to get the information because he or she would know that they need to file.

LEGISLATOR CRECCA:

But this says they are going to do it –

CHAIRMAN BISHOP:

They'll have to go hand it in order to pass the resolutions, just like the Greenways –

LEGISLATOR CRECCA:

But I mean I think the Real Estate Director is saying that she would like to comply with the law

and follow the procedures that we've set up here. So, maybe there should be a mechanism that, you know –

CHAIRMAN BISHOP:

Two days after notification to the department.

LEGISLATOR CRECCA:

That's good. In the same – on page eight in the same – under the same – I'm sorry. Under the 25th resolved I had a question. After paragraph eight there is another continuation of the paragraph and one and two?

MR. SABATINO:

That was changed by your discussion from earlier. Originally the concept was to have it come to the committee, but instead what it will do is this procedural motion will be by the full Legislature.

LEGISLATOR CRECCA:

Okay, that answers my question because that's exactly what I had, that it was limiting us possibly. And I think, let me just check, the charitable donation clause we have already addressed that, correct?

CHAIRMAN BISHOP:

That is one on page three. We took out the appraiser rotation.

MR. SABATINO:

Right, we took it out.

LEGISLATOR CRECCA:

Yeah, we combined, okay. I have nothing else, and I thank the committee for putting up with me going through that.

CHAIRMAN BISHOP:

Anybody else?

MR. ISLES:

Yes. Just one comment on resolved clause number 26, which speaks of the effective municipal land use approvals on an appraisals, on an acquisition. The only clarification on that we would like to suggest is that perhaps there be a threshold on that. If it is an acquisition perhaps in excess of \$300,000 that there be a circulation of the appraisal report, number one, and that there be some definition of municipal land use decision that would affect a parcel.

CHAIRMAN BISHOP:

I put that back on you last meeting. I said all right, Isles, write something up. Have you got one?

MR. ISLES:

Yes.

CHAIRMAN BISHOP:

Let's see it. What I was suggesting was discretionary be the trigger. Any discretionary act by the village or town that increases the value, because then all the administrative actions that you would say clog it up we would remove and we would just have zoning boards – and you know, there are a lot of discretionary actions that occur.

MR. ISLES:

It is a little bit of a definition, then. Like a subdivision is often times considered to be as of right, it is not a rezoning. On the other hand, it might be considered discretionary in terms of what number of lots they are going to get and the size of the lots and things like that.

CHAIRMAN BISHOP:

So you think discretionary is not strong enough?

MR. ISLES:

Yeah. It might be a little bit too vague.

CHAIRMAN BISHOP:

Well, then what's – rezonings, subdivision improval, is there any other category that is –

MR. SABATINO:

Variances, subdivisions, special permits.

CHAIRMAN BISHOP:

That's good. Special permits.

LEGISLATOR CRECCA:

Do you want it to come back for all variances? Well, I guess you can't.

CHAIRMAN BISHOP:

Variances that increase value.

MR. ISLES:

But what is that going to be? I mean, that's –

LEGISLATOR CRECCA:

Yeah, now you are getting – I mean the only reason I say, your variance never – a fence that is six inches – you know, instead of four feet it is five foot fence.

CHAIRMAN BISHOP:

But that is not what we are dealing with here.

MR. ISLES:

Maybe a use variance where they are changing the use of the property. That would certainly affect value.

CHAIRMAN BISHOP:

Sold.

LEGISLATOR CRECCA:

Yeah, that is a better term.

MR. ISLES:

Keep in mind, you still have this two step process. The Legislature will have a chance to review most acquisitions, anyway.

MS. COSTIGAN:

Can I ask that you remove the phrase from either version of review appraisal? We don't do review appraisals. There is no such animal.

CHAIRMAN BISHOP:

Yes. So we added use variance.

MR. SABATINO:

I added special permits.

CHAIRMAN BISHOP:

Special permits.

MR. SABATINO:

I added special permit, I added variance – you are limiting it to use variance?

CHAIRMAN BISHOP:

Yes, use variances, special permits.

LEGISLATOR CRECCA:

And take out and/or appraisal review.

CHAIRMAN BISHOP:

And I would take out significant.

MR. SABATINO:

Yeah, significant shouldn't be in there.

CHAIRMAN BISHOP:

Right, because that's – we have determined by the list what is significant.

LEGISLATOR CRECCA:

Yeah, but it says such as a. I mean, if we haven't covered something and there is some sort of significant thing, you will want them to cover that.

CHAIRMAN BISHOP:

Municipal land use decisions –

LEGISLATOR FIELDS:

Just says such, it doesn't say not limited to.

LEGISLATOR CRECCA:

Right, but that is why you want to leave significant in. We don't want the change of the fence

size and every little thing a Planning Department can do.

CHAIRMAN BISHOP:

We are trying this out with four specific categories, I think. Special permits, use variances, subdivision approvals and rezonings. So, take out anything that suggests it is more or less than that. That's the stuff that increases value. Those are the decisions the town –

LEGISLATOR CRECCA:

I know. If we are leaving something out, though, we are using a little more discretion, that is all I meant.

CHAIRMAN BISHOP:

Then we will write another reform at that point. Next. Is that it?

MS. COSTIGAN:

Twenty-seven has the same review appraisal in it.

CHAIRMAN BISHOP:

Right.

LEGISLATOR CRECCA:

And/or review appraisal.

CHAIRMAN BISHOP:

Remove review appraisal, because we don't have those. Next. Is that it? Okay. Now. Let's go to the agenda and we will take those out of order and we can – starting at –

LEGISLATOR CRECCA:

Are you going to do them all with one motion?

CHAIRMAN BISHOP:

No, because they have different outcomes.

LEGISLATOR CRECCA:

No, can't you do all the ones that we have already incorporated?

CHAIRMAN BISHOP:

Okay. So why don't we do that. We will take 1360 through 1387 and table them subject to call.

MR. SABATINO:

Plus 89.

CHAIRMAN BISHOP:

Right. 1360 through 1387 and 1389. Motion to table subject to call. Second by Legislator Caracciolo.

1360 Implement Real Estate Division Reform (Auction Deposit Fee). Assigned to Environment, Land Acquisition & Planning. (Bishop)

1361 Implement Real Estate Division Reform (Negotiation Process). Assigned to Environment, Land Acquisition & Planning. (Bishop)

1362 Implement Real Estate Division Reform (Appraiser Rotation). Assigned to Environment, Land Acquisition & Planning. (Bishop)

1363 Implement Real Estate Division Reform (Appraiser Disclosure). Assigned to Environment, Land Acquisition & Planning. (Bishop)

1364 Implement Real Estate Division Reform (Personnel Financial Disclosure). Assigned to Environment, Land Acquisition & Planning. (Bishop)

1365 Implement Real Estate Division Reform (Title Insurance Company Selection). Assigned to Environment, Land Acquisition & Planning. (Bishop)

1366 Implement Real Estate Division Reform (Repeat Appraisal). Assigned to Environment, Land Acquisition & Planning. (Bishop)

1367 Implement Real Estate Division Reform (Auction Upset Price). Assigned to Environment, Land Acquisition & Planning. (Bishop)

1368 Implement Real Estate Division Reform (Preliminary Negotiations). Assigned to Environment, Land Acquisition & Planning. (Bishop)

1369 Implement Real Estate Division Reform (Appraiser Standards). Assigned to Environment, Land Acquisition & Planning. (Bishop)

1370 Implement Real Estate Division Reform (Appraiser Qualifications). Assigned to Environment, Land Acquisition & Planning. (Bishop)

1371 Implement Real Estate Division Reform (Written Offer). Assigned to Environment, Land Acquisition & Planning. (Bishop)

1372 Implement Real Estate Division Reform (Staff Appraiser). Assigned to Environment, Land Acquisition & Planning. (Bishop)

1373 Implement Real Estate Division Reform (Sellers Appraisal). Assigned to Environment, Land Acquisition & Planning. (Bishop)

1374 Implement Real Estate Division Reform (Appraiser Certification). Assigned to Environment, Land Acquisition & Planning. (Bishop)

1375 Implement Real Estate Division Reform (Periodic Appraiser Review.) Assigned to Environment, Land Acquisition & Planning. (Bishop)

1376 Implement Real Estate Division Reform (Joint Acquisition Appraised Value Limitation). Assigned to Environment, Land Acquisition & Planning. (Bishop)

1377 Implement Real Estate Division Reform (Employee Certification). Assigned to Environment, Land Acquisition & Planning. (Bishop)

1378 Implement Real Estate Division (Closing Property Deadline). Assigned to Environment, Land Acquisition & Planning. (Bishop)

1379 Implement Real Estate Division Reform (Offer Substantiation). Assigned to Environment, Land Acquisition & Planning. (Bishop)

1380 Implement Real Estate Division Reform (Action Deposit Payment). Assigned to Environment, Land Acquisition & Planning. (Bishop)

1381 Implement Real Estate Division Reform (Rules of Auction). Assigned to Environment, Land Acquisition & Planning. (Bishop)

1382 Implement Real Estate Division Reform (Appraised Value Limitation). Assigned to Environment, Land Acquisition & Planning. (Bishop)

1383 Implement Real Estate Division Reform (Reporting Requirements). Assigned to Environment, Land Acquisition & Planning. (Bishop)

1384 Implement Real Estate Division Reform (Outside Business). Assigned to Environment, Land Acquisition & Planning. (Bishop)

1385 Implement Real Estate Division Reform (Charitable Donation Clause). Assigned to Environment, Land Acquisition & Planning. (Bishop)

1386 Implement Real Estate Division Reform (Procedural Manual). Assigned to Environment, Land Acquisition & Planning. (Bishop)

1387 Implement Real Estate Division Reform (Oversight). Assigned to Environment, Land Acquisition & Planning. (Bishop)

All in favor? Approved. **(Vote: 5/0/0/0)**. Well, no. 1388 has to be changed, so that's just will be what is on the agenda for the next meeting.

1388 Implement Real Estate Division Reform (Appraiser Qualification). Assigned to Environment, Land Acquisition & Planning. (Bishop)

LEGISLATOR CRECCA:

Yes. Motion to table 1388.

CHAIRMAN BISHOP:

Motion to table 1388 by myself. Second by Legislator Crecca. All in favor? Opposed? Okay. **(Vote: 5/0/0/0)**. So that is reform. We are making progress, we're working hard. It is almost seven o'clock.

Okay. We have here as well the Department of Public Works to speak about the quarter cent –

LEGISLATOR FIELDS:

That, I think, is going to take a lot of discussion as well.

CHAIRMAN BISHOP:

Well, I am supporting it. I think there is enough votes to pass it.

LEGISLATOR CRECCA:

Which one is this?

CHAIRMAN BISHOP:

It is the surface water quality – well, why don't we just get to it when we get to it. Let's go to the agenda.

INTRODUCTORY PRIME

1274 Authorizing the acquisition of development rights to farmlands by the county of Suffolk, of Detmer Farms, Town of Brookhaven (pay-as-you-go ¼ % Taxpayer Protection Program.) Assigned to Environment, Land Acquisition & Planning. (Fisher)

LEGISLATOR CARACCILOLO:

On this, since we don't have the new procedures in effect yet, we have appraisals?

MR. BURKE:

We have a little bit of an older appraisal at this point. We don't have an appraisal for development rights on this yet since – this property was approved for open space purchase in prior years for even the past –

LEGISLATOR CARACCILOLO:

We don't have a current appraisal.

MR. BURKE:

We don't have a current development rights appraisal. We have an appraisal within the last year, yes.

LEGISLATOR CARACCILOLO:

Would it be appropriate to use anything other than a current development appraisal?

MR. BURKE:

No, we would have to – if this was to be approved, I would go back and we would ask – have appraisals for the development rights be prepared.

LEGISLATOR CARACCILOLO:

I am going to make a motion to table, Mr. Chairman. Maybe, you know, since we are adopting a policy –

CHAIRMAN BISHOP:

I mean, we have made a policy decision to acquire the property, and now going back and asking for a lesser interest. We have already gone down this path.

LEGISLATOR CRECCA:

Does these supersede that prior policy?

CHAIRMAN BISHOP:

No, it would give them the option to do one of the other I assume.

MS. COSTIGAN:

This would be ideal in the sense that we would spend less money getting the development rights and it would continue to be farmed.

LEGISLATOR CRECCA:

Oh, no, I agree with it. I am saying but if we approve this you can't go out and buy the property. You can only buy the farmland rights, correct? You won't go out and buy the whole property.

CHAIRMAN BISHOP:

We have approved the whole enchilada –

MS. COSTIGAN:

Right. Under this program that is all we would do.

LEGISLATOR CRECCA:

No, I don't disagree.

LEGISLATOR CARACCIOLO:

Here is a question that I would raise, and I am not philosophically opposed to preserving farmland, it is what is the County's goal and mission in preserving farmland. Do we want to preserve farmland in isolated areas, because I am not aware that this is contiguous to a large farm belt. Is there some assurance that once we acquire this property that it will remain in agricultural production and now wind up like Froehlich Farm, where we spent a lot of money and it just lays fallow. Those are the kinds of questions.

MR. BURKE:

I think the second question is appropriate. Under Froehlich it was purchased under open space, and unfortunately it cannot be farmed. Here the owner of the property wants to continue farming it.

LEGISLATOR CARACCIOLO:

Okay. But, Jim, my question then is do we have some assurance that long-term that is exactly what will take place there?

MR. BURKE:

I think as much assurance as we have on any farmland deal we have on here.

LEGISLATOR CRECCA:

Yeah, I'll second the motion.

CHAIRMAN BISHOP:

All in favor? Opposed? It is approved. **(Vote: 4/0/0/1 Not Present: Legislator Cooper)**

1287 Adopting Local Law No. – 2002, A Charter Law to reestablish a Suffolk County Department of Real Estate. Assigned to Environment, Land Acquisition & Planning and Ways & Means and Finance & Financial Services. (Co. Exec.)

MR. SABATINO:

There is a public hearing.

CHAIRMAN BISHOP:

Motion to table for public hearing --

LEGISLATOR FIELDS:

Second.

CHAIRMAN BISHOP:

By myself, seconded by Legislator Fields. 1287 is tabled. **(Vote: 4/0/0/1 Not Present: Legislator Cooper)**

1288 Adopting Local Law No. – 2000, A Charter Law to transfer the function of selection Real Property Appraisers to the Division of Real Estate in the County Department of Planning.

LEGISLATOR CRECCA:

Those goes along with 1287.

CHAIRMAN BISHOP:

Is that what this is, the companion to 1288?

MR. SABATINO:

No, it is two different bills. It needs a public hearing.

LEGISLATOR CRECCA:

But it needs a public hearing in other words, right?

CHAIRMAN BISHOP:

Motion to table for public hearing by myself, second by Legislator Fields. All in favor? Opposed? **(Vote: 4/0/0/1 Not Present: Legislator Cooper)**

1289 Amending the Suffolk County Classification and Salary Plan and the 2002 Operating budget in connection with a new position title in the Department of Planning, Division of Real Estate (General Real Estate Appraiser). Assigned to Environment, Land Acquisition & Planning and Ways & Means and Human Resources. (Co. Exec.)

Is this – are we prime in this?

MR. SABATINO:

Yes. This is one of the reform measures.

CHAIRMAN BISHOP:

General real estate appraiser. Okay.

LEGISLATOR CRECCA:

Second.

CHAIRMAN BISHOP:

How is this being funded, by the way?

MR. DUFFY:

They have it funded in their current budget.

CHAIRMAN BISHOP:

Is that what you are planning to do?

MS. COSTIGAN:

We are transferring from the current – we are moving a title is how we are doing it, from the current budget.

CHAIRMAN BISHOP:

There is no fiscal impact.

MS. COSTIGAN:

No, we have a vacant position.

LEGISLATOR CRECCA:

They are getting rid of an appraiser investigator.

CHAIRMAN BISHOP:

Motion to approve by myself, second by Legislator Caracciolo. All in favor? Opposed? It is approved. **(Vote: 4/0/0/1 Not Present: Legislator Cooper)**

1292 Authorizing planning steps for the acquisition of land under pay-as-you-go ¼% Taxpayer Protection Program (Hubbard property, Town of Riverhead). Assigned to Environment, Land Acquisition & Planning (Caracciolo)

LEGISLATOR CARACCILOLO:

Motion to approve. We have Mr. Turner here to elaborate on the important ecological significance of the property. Can we have a report? Thank you. And I want to thank the Planning Department for preparing this handout that is now before us.

MR. TURNER:

Given the lateness of the hour, Mike, and thoroughness of this report, I think I will just suffice to say that the report, I think, clearly supports the acquisition of the property and underscores the ecological value of it. I can say that as The Nature Conservancy working with our governmental partners developed our critical land protection strategy for the Peconic Estuary, this parcel is identified as one of three key parcels in the Town of Riverhead for public acquisition. And again, for reasons that are elaborated with more detail in the report, it merits County acquisition.

CHAIRMAN BISHOP:

Okay. I guess we are going to learn more about it when we are done with the preliminary planning steps under our new process. So, motion to approve by Legislator Caracciolo. Second by Legislator Fields. All in favor? Opposed? 1292 is approved. **(Vote: 5/0/0/0)**

1297 Adopting Local Law - 2002, A Charter Law to formalize procedures for Legislative Committee Review of Land Transactions. Assigned to Environment, Land Acquisition & Planning. (Caracciolo)

Do we still need this, Mike?

LEGISLATOR CARACCILOLO:

Which one, Dave? I'm sorry.

CHAIRMAN BISHOP:

1297.

LEGISLATOR CARACCILOLO:

Yes. We can table.

CHAIRMAN BISHOP:

Motion to table subject to call by Legislator Caracciolo, second by myself. All in favor? Opposed?
(Vote: 5/0/0/0)

1298 Authorizing planning steps for acquisition under Suffolk County Multifaceted Land Preservation Program (property of Corso/Lutz, Lake Ronkonkoma) Town of Brookhaven. Assigned to Environment, Land Acquisition & Planning. (Caracappa)

What is the –

LEGISLATOR FIELDS:

Rating.

CHAIRMAN BISHOP:

Well, no. What is the purpose? If it is for seven and a half acres they could athletic fields. Is it for open space in the middle of an industrial –

MR. ISLES:

We are not certain at this time. If you would like –

CHAIRMAN BISHOP:

You are going to meet with the sponsor?

MR. ISLES:

If you would like, we can contact the sponsor and request further information.

CHAIRMAN BISHOP:

There is a whole bunch of these. Do you guys ever communicate?

MR. ISLES:

We did on the one coming up a little later on is with the Matrix property and we did contact the Legislator. He has indicated that he is proposing it and he has amended his resolution for active parkland and for planning steps. So that would then give us the ability to then –

CHAIRMAN BISHOP:

Okay. Motion to table this one by myself, second by Legislator Crecca. All in favor? Opposed?
1298 is tabled. **(Vote: 5/0/0/0)**

1314 Approving acquisition under Suffolk County Multifaceted Land Preservation Program (property known as Sagtikos Manor) Town of Islip. Assigned to Environment, Land Acquisition & Planning. (Carpenter)

We have previously **approved** this.

1318 Appropriating funds for “I’m Organically Trained” stickers for landscapers. Assigned to Environment, Land Acquisition & Planning. (Bishop)

My very important resolution. You ask why?

LEGISLATOR CRECCA:

Tell us.

CHAIRMAN BISHOP:

We previously approved a program to train landscapers in organics during the off season, and I assumed incorrectly that the department would have it within its budget to provide the graduates of the program with stickers for the trucks so that people will know that they passed the program. They said they couldn't do that, so we are appropriating the money out of the –

LEGISLATOR CARACCILOLO:

Out of the?

CHAIRMAN BISHOP:

They are going to have enough stickers for now, for years ahead. And it is the goal of the Long Island – it is actually a very good program. More than 400 landscapers took the classes this off season that we are providing. So you have all these people who are now trained in alternatives to pesticides, and it is part of a public information campaign –

LEGISLATOR CRECCA:

I am with you, David, on this.

CHAIRMAN BISHOP:

You should be with me. It is very important.

LEGISLATOR CRECCA:

I would like to second the motion to approve by you.

CHAIRMAN BISHOP:

Thank you. A motion has been made and seconded.

LEGISLATOR CARACCILOLO:

On the motion.

CHAIRMAN BISHOP:

Yes.

LEGISLATOR CARACCILOLO:

Have we established some criteria and policy with respect to the water quality or the water protection fund, that component of the ¼% program? Have we done that yet, how we are going to spend money that's earmarked – that 11% that is set aside.

CHAIRMAN BISHOP:

So you are going to stop –

LEGISLATOR CARACCILOLO:

No, no, no. I just want to know when we are going to take up that issue because –

CHAIRMAN BISHOP:

I guess that is why they are here.

LEGISLATOR CARACCILOLO:

Okay.

CHAIRMAN BISHOP:

So can we move this?

LEGISLATOR CARACCILO:

Yes.

CHAIRMAN BISHOP:

A motion to approve has been made and seconded. All in favor? Opposed? Thank you. **(Vote: 5/0/0/0)**

1320 Approving acquisition and appropriating ¼ % sales tax proceeds for pay-as-you-go Open Space Acquisition of Rasmussen property at 68 North Ferry Road, Town of Shelter Island (Suffolk County Tax Map No. 0700-015.00-03.00-004.000). Assigned to Environment, Land Acquisition & Planning. (Caracciolo)

Now we know what they know.

MR. ISLES:

We are in trouble.

LEGISLATOR CARACCILO:

See all those trees?

LEGISLATOR FIELDS:

Well, the yellow is all Suffolk County owned property already, right?

LEGISLATOR CRECCA:

Why are we buying this?

LEGISLATOR FIELDS:

This is matching funds with Shelter Island. Motion to approve.

LEGISLATOR CARACCILO:

Second.

LEGISLATOR CRECCA:

Does this have a rating?

LEGISLATOR CARACCILO:

No, no. We are acquiring this.

MR. ISLES:

Authorization to acquire.

LEGISLATOR CRECCA:

Is this recommended?

MR. ISLES:

We definitely recommend it. Shelter Island has definite groundwater aquifer protection issues.

This is important to maintaining that.

CHAIRMAN BISHOP:

A motion and a second having been made, all in favor? Opposed? It is approved. **(Vote: 5/0/0/0)**

1321 Making a SEQRA determination in connection with the proposed improvements of Sewer District #3, Town of Babylon, (CP 8170). Assigned to Environment, Land Acquisition & Planning. (Pres. Off.)

Can we get an explanation what they are doing? Mr. Wright is here. Ben, tell us what this is about. You need a microphone, though.

MR. WRIGHT:

This SEQRA resolution is for improvements to Bergen Point. There are 17 different elements that we put into this particular project that we presented to CEQ. Of the 17, only one is a construction where we are connecting two buildings with a four foot diameter pipe. The rest are replacement in kind of equipment and systems security --

CHAIRMAN BISHOP:

Motion to approve by myself. Second by Legislator Fields. All in favor? Opposed? Thank you. Well said. **(Vote: 5/0/0/0)**

1348 Approving the appointment of Eric Alexander as a member of the Suffolk County Smart Growth Committee representing a Smart Growth Principles Organization. Assigned to Environment, Land Acquisition & Planning. (Co. Exec.)

1348 we did. He was approved.

1356 Authorizing acquisition of environmentally sensitive lands to be acquired with current funding pursuant to Article XII of the Suffolk County Charter. Assigned to Environment, Land Acquisition & Planning. (Bishop)

This is the Pine Barrens?

MR. SABATINO:

Yeah, this is the one that you wanted.

CHAIRMAN BISHOP:

Okay. I didn't realize it was before us. I thought it was in the next packet. Okay. This is the reauthorization of Pine Barrens property. Are you paying attention? This is important, 1356. I make a motion to approve. Second by Legislator Fields. She was first. Does everybody want to cosponsor on the committee? Okay. All in favor? Opposed? It is approved 5-0. **(Vote: 5/0/0/0)**

MR. TURNER:

Can I just express the Conservancy's appreciation for your introduction of this and appreciation of the committee's support for it.

CHAIRMAN BISHOP:

We appreciate his appreciation.

1357 To set a public hearing for the review and modification of Agricultural District No. 3 in the Town of Babylon, Brookhaven, Huntington, Islip and Smithtown. Assigned to Environment, Land Acquisition & Planning. (Tonna)

Legislator Tonna, that great friend of the farmer.

LEGISLATOR CARACCILOLO:

Motion to approve.

LEGISLATOR COOPER:

Second.

CHAIRMAN BISHOP:

Does anybody know what this is?

LEGISLATOR CRECCA:

Sure. It is a bill on before us in committee, and I happen to have a copy of it right here.

LEGISLATOR CARACCILOLO:

It establishes a public hearing.

CHAIRMAN BISHOP:

Oh, it is just a public hearing? Okay. Motion to approve by Legislator Crecca, second by Legislator Cooper. All in favor? Opposed? It is Approved. **(Vote: 5/0/0/0)**

1358 Approving the modification of Agricultural District No. 3 in the Town of Babylon, Brookhaven, Huntington, Islip and Smithtown, subject to the required subsequent approvals of the State of New York. Assigned to Environment, Land Acquisition & Planning. (Tonna)

There is a motion to table by Legislator Cooper. Second by myself. All in favor? Opposed? 1358 is tabled. **(Vote: 5/0/0/0)**

1360, we have done all those obviously. And that brings us to Home Rule Message. Where is the resolution on the surface water quality protection program? 1169. Oh, we didn't get to tables. I see.

LEGISLATOR CRECCA:

Let's just keep going, though.

CHAIRMAN BISHOP:

Okay.

HOME RULE MESSAGES

1-02 Home Rule Message Requesting New York State Legislature to Require Abandonment of Subdivision Maps Prior to Approval of New Subdivision Maps. (Fields)

Explanation.

MR. SABATINO:

Obviously it is pending State legislation. Under current law a subdivision can be cancelled by simply filing a document with the Suffolk County Clerk. This is a requirement that there would have to be approval from a municipality before the cancellation could take place. It would add one more level of review before the abandonment could occur.

LEGISLATOR FIELDS:

Motion to approve.

LEGISLATOR CRECCA:

I apologize. I just don't understand. In other words –

CHAIRMAN BISHOP:

A subdivision map is when the parcel owner or developer wants to subdivide, put in roads and improvement.

LEGISLATOR CRECCA:

I understand that.

CHAIRMAN BISHOP:

I am trying to do for my own thing. Now, he doesn't want to do it any longer. Why can't he just file something and say I don't want to do it any longer?

MR. SABATINO:

He can right now under current law. This is State legislation that was proposed to change that process for Suffolk County and to require that an owner prior to doing it get –

CHAIRMAN BISHOP:

Yeah, but why?

LEGISLATOR CRECCA:

Why would we want to do that? That is what I am saying.

CHAIRMAN BISHOP:

Ginny, do you know?

LEGISLATOR FIELDS:

This is so long ago.

CHAIRMAN BISHOP:

All right. Can we just table it to the next meeting? We won't kill it, we'll just put it over to the next meeting. Motion to table by Legislator Fields, second by myself. It is tabled until the next meeting. **(Vote: 5/0/0/0)**

Where is the red coat? Mr. Bagg has left. Are you he?

LEGISLATOR CARACCILO:

No, Vito is not he.

CHAIRMAN BISHOP:

I know Vito is not he. You are not here for the purposes of – okay. What do we do? Paul, what

do we do in the absence of Mr. Bagg? Can we move forward on these? Do you have the information?

MR. SABATINO:

No, you can't because the predicate is CEQ's rationale.

CHAIRMAN BISHOP:

And only he possesses the information. Wow. What power. Let's take good care of him.

MR. SABATINO:

Well, it doesn't have to be him particularly, just somebody from his office who could do it.

LEGISLATOR CRECCA:

Is there anybody here?

CHAIRMAN BISHOP:

Is there anybody here who can do it? Does anybody have this CEQ information?

MR. MALLAMO:

I am on CEQ.

CHAIRMAN BISHOP:

All right, give it a shot.

LEGISLATOR FIELDS:

Well, I am on CEQ too, and we did approve these that are before us.

LEGISLATOR CRECCA:

Yeah, so let's go for it.

CHAIRMAN BISHOP:

Can you describe as we come across them? Paul, is that improper?

MR. SABATINO:

I have no problem with somebody from CEQ if they actually recall the details. I mean, I have seen the documents from CEQ, but I honestly truthfully don't recall the details of their rationale. If I had their documents I could brief you, but it wouldn't be appropriate –

CHAIRMAN BISHOP:

Let's see if we can get through some of these.

MR. SABATINO:

Well, you can do the first one because that's –

CHAIRMAN BISHOP:

10-02 is the legislative resolutions.

CEQ RESOLUTIONS

10-02 Proposed SEQRA Classifications of Legislative Resolutions Laid on the Table on March 19, 2002.

Motion to approve by myself. Second by Legislator Caracciolo. All in favor? Opposed? **(Vote: 5/0/0/0)**

11-02 Proposed Planning and Design of Improvements to Charles R. Dominy County Park, a/k/a West Sayville Country Club, Town of Islip. (Type II Action)

What are they doing there?

MR. SABATINO:

Okay. This is a proposal to conduct a traffic study to determine whether or not they can improve the traffic flow for motorists and pedestrians and whether or not they should design a new pesticide storage facility. They concluded that this would be a Type II Action.

CHAIRMAN BISHOP:

Motion by Legislator Fields, second by myself. All in favor? Opposed? **(Vote: 5/0/0/0)**

12-02 Proposed Temporary Building, Vanderbilt Museum. (Type II Action)

Does anybody know about this one?

MR. SABATINO:

No, and I will defer to Lance Mallamo.

CHAIRMAN BISHOP:

Lance I hope knows.

LEGISLATOR CARACCILOLO:

How big, Lance?

MR. MALLAMO:

It is a 20 – I'm sorry, 40 by 60 butler building. It is a temporary building that is going to go on an asphalt parking lot behind the planetarium to put our dinosaur exhibit until the seaplane hangar is finished.

CHAIRMAN BISHOP:

Okay. You are putting dinosaurs in a butler building. Motion to approve by Legislator Cooper, second by Legislator Caracciolo. All in favor? Opposed? **(Vote: 5/0/0/0)**

13-02 Proposed Construction of Stump Pond Boardwalk at Blydenburgh County Park, Hauppauge, Town of Smithtown (Unlisted Action – Negative Declaration)

LEGISLATOR FIELDS:

This was for a boardwalk.

CHAIRMAN BISHOP:

Yes. Thank you.

MR. MALLAMO:

This was a project that was funded in a grant and it is to link a section of Blydenburgh Park around Stump Pond. This is right behind us here in Hauppauge that is not inaccessible because it is a wetland area so a boardwalk is going to be built through that.

CHAIRMAN BISHOP:

And that has no impact on the environment? I don't understand that. Motion to table.

LEGISLATOR FIELDS:

No, no, no. Wait. It was so that people didn't walk through the wetland and they could go above it and it actually improves the environment because if you have a park and you have the ability to look at the wetlands, this does not ruin them, and it allows you to go above it.

MR. MALLAMO:

You are absolutely right. It is up on posts. The posts were reviewed and the placement –

CHAIRMAN BISHOP:

You are putting a bunch of posts into the ground.

MR. MALLAMO:

It's fine.

CHAIRMAN BISHOP:

All right. Motion by Legislator Fields, second by Legislator Crecca. All in favor? Opposed? List me as opposed. **(Vote: 4/1/0/0 Opposed: Legislator Bishop)**

15-02 Proposed Residential Juvenile Detention Center, Yaphank, NY Town of Brookhaven CP 3012 (Unlisted Action – Negative Declaration).

LEGISLATOR CRECCA:

Motion.

LEGISLATOR CARACCILOLO:

Second.

CHAIRMAN BISHOP:

I thought we were putting this in your district, Crecca. I thought that was –

LEGISLATOR CRECCA:

No, no, no. That was just a ploy to get you to vote for it.

CHAIRMAN BISHOP:

I see.

LEGISLATOR FIELDS:

Motion to approve.

CHAIRMAN BISHOP:

Motion to approve by Legislator Fields, second by Legislator Crecca. All in favor? Opposed? It is approved. **(Vote: 5/0/0/0)**

16-02 Proposed Addition to Sixth District Court, Village of Patchogue, Town of Brookhaven CP 1106 (Unlisted Action – Negative Declaration).

LEGISLATOR FIELDS:

I am going to make a motion to approve this because I don't think there is any – it is just improving the court in Patchogue.

CHAIRMAN BISHOP:

Motion by Legislator Fields. Second by Legislator Caracciolo. All in favor? Opposed? It is approved. **(Vote: 5/0/0/0)**. Don't tell Mr. Bagg that we didn't need them.

TABLED PRIME

1001 Appropriating Greenways infrastructure improvements fund grant for Miller Place property in Town of Brookhaven. Assigned to Environment, Land Acquisition & Planning. (Haley)

MR. SABATINO:

You still need a town resolution.

CHAIRMAN BISHOP:

Motion to table by myself, second by Legislator Caracciolo. **(Vote: 5/0/0/0)**

1002 Approving acquisition under Suffolk County Land Preservation Partnership Program (Ridgehaven Estates) Town of Brookhaven. Assigned to Environment, Land Acquisition & Planning. (Haley)

Do we need a resolution?

MR. ISLES:

We still need a town board resolution.

MR. SABATINO:

Actually, this one you need a town resolution –

CHAIRMAN BISHOP:

Same motion, same second, same vote. **(Vote: 5/0/0/0)**

1010 Establishing land use planning policy for County Land Acquisitions. Assigned to Environment, Land Acquisition & Planning. (Caracciolo)

LEGISLATOR CARACCILOLO:

Motion to table.

CHAIRMAN BISHOP:

Motion to table by Legislator Caracciolo, seconded by myself. All in favor? Opposed? **(Vote: 5/0/0/0)**

1022 Establishing truth and honesty policy for County Land acquisition and disposition appraisals. Assigned to Environment, Land Acquisition & Planning. (Fields)

LEGISLATOR CARACCILOLO:

Table.

CHAIRMAN BISHOP:

Can we table these subject to call?

LEGISLATOR FIELDS:

This one, yeah. This one I will even withdraw.

CHAIRMAN BISHOP:

Subject to call. Motion to table subject to call by Legislator Fields, second by myself. 1022 is tabled subject to call. **(Vote: 5/0/0/0)**

1055 Approving acquisition under Suffolk County Multifaceted Land Preservation program for Stage II Active Parklands (property in Ridge) Town of Brookhaven. Assigned to Environment, Land Acquisition & Planning. (Haley)

This is not for planning steps? This is the whole kit and caboodle?

MR. ISLES:

We really have nothing on this at this point. We have no town resolution or a civic group. There is also no agreement with the Parks Department in terms of the operating agreement.

CHAIRMAN BISHOP:

Motion to table by myself, second by Legislator Caracciolo. All in favor? Opposed? **(Vote: 5/0/0/0)**

1075 Authorizing planning steps for acquisition under Suffolk County Multifaceted Land Preservation Program (Fieldstone property in Centereach) Town of Brookhaven. Assigned to Environment, Land Acquisition & Planning. (Caracappa)

What do you know about this one?

MR. ISLES:

This is one that had ranked relatively low on the scoring sheet. We presented it last time. There were three parcels along Jericho Turnpike in Centereach that Legislator Caracappa had proposed. The one that you had asked me to contact him on was Matrix Realty. But as far as 1075, it is not one we would recommend.

CHAIRMAN BISHOP:

So motion to table subject to call by myself, seconded by Legislator Caracciolo. All in favor? Opposed? **(Vote: 5/0/0/0)**

1076 Authorizing planning steps for acquisition under Suffolk County Multifaceted Land Preservation Program (Bartolomeo property in Centereach) Town of Brookhaven. Assigned to Environment, Land Acquisition & Planning. (Caracappa)

Same motion, same second, same vote. **(Vote: 5/0/0/0)**

1077 Authorizing planning steps for acquisition under Suffolk County Multifaceted Land Preservation Program (Matrix Realty property in Centereach) Town of Brookhaven. Assigned to Environment, Land Acquisition & Planning. (Caracappa)

1077 he is going to change to Greenways. Is that correct?

MR. ISLES:

He submitted a corrected copy of the resolution proposing it under active recreation Greenways.

LEGISLATOR CARACCIOLO:

Was that distributed, Tom?

MR. ISLES:

I did see a copy. I am not sure if it –

LEGISLATOR CARACCIOLO:

I mean the aerial.

MR. ISLES:

Yeah, we handed that out at the last meeting.

CHAIRMAN BISHOP:

It is how many acres? It has some significance.

MR. ISLES:

It is I think a little less than two acres as I recall. But it is a pretty densely developed area, and what is nice about this piece is it is between the commercial strip on Jericho Turnpike and the neighborhood to the south. So it is kind of a transitional piece. That might work out nicely for active recreation.

CHAIRMAN BISHOP:

Motion to approve by myself. Any second? Second by Legislator Crecca. All in favor? Opposed? 1077 for planning steps is approved. **(Vote: 5/0/0/0)**

LEGISLATOR CRECCA:

Cosponsor.

1080 Prohibiting County land acquisition policy where appraisals are affected by municipal land use. Assigned to Environment, Land Acquisition & Planning. (Bishop)

Motion to table subject to call by myself, second by Legislator Crecca. All in favor? Opposed? **(Vote: 5/0/0/0)**

1149 Implementing Greenways Program in connection with acquisition of farmland development rights at Yaphank (Town of Brookhaven). Assigned to Environment, Land Acquisition & Planning. (Towle)

Explanation.

MR. SABATINO:

This is 65 acres.

LEGISLATOR CARACCILOLO:

Motion to approve.

MR. SABATINO:

But it requires a town board –

CHAIRMAN BISHOP:

And they don't have it. Motion to table by myself, second by Legislator Fields. All in favor?
Opposed? **(Vote: 5/0/0/0)**

LEGISLATOR CARACCILOLO:

Just quickly I want to back it up. It requires a town board –

MR. SABATINO:

Wait. No, there is a corrected copy. The original required –

CHAIRMAN BISHOP:

Hold on.

LEGISLATOR CARACCILOLO:

This has a different funding source.

MR. SABATINO:

It is hard to keep track. Just let me pull back the corrected copy.

LEGISLATOR CARACCILOLO:

This is not a partnership.

MR. SABATINO:

No, the original bill was. Just bear with me one second.

MR. BURKE:

We have prior approval for 100 percent purchase, but this one would do a 70-30 Greenways.

LEGISLATOR CARACCILOLO:

70-30 with the Town of Brookhaven?

MR. ISLES:

Yeah, and actually Mr. Sabatino is correct. I see a corrected resolution and it calls for acquisition under multifaceted and it limits it to 50 acres which is current farmed part of the parcel and not 65.

LEGISLATOR CARACCILOLO:

So it is not – it is multifaceted.

MR. ISLES:

Right.

LEGISLATOR CARACCILOLO:

Okay. I make a motion to approve.

MR. SABATINO:

1149 converted it from a Greenways Farmland, which was 70% County funding under the multifaceted to a 100% County funding share.

CHAIRMAN BISHOP:

I don't know why we would leave the 70-30 program to go to the 100% program. Is the Town of Brookhaven opposed to it?

LEGISLATOR FIELDS:

Motion to approve.

LEGISLATOR CARACCILOLO:

I made the motion.

CHAIRMAN BISHOP:

Hold on.

MR. BURKE:

I don't think the Town of Brookhaven has any opposition to this at all, no.

CHAIRMAN BISHOP:

But they don't want to participate?

MR. BURKE:

I haven't heard that either.

CHAIRMAN BISHOP:

He took it out of a 70-30; right?

MR. SABATINO:

The original bill was this Greenways 70-30. It got converted in the corrected copy to the 100% County funding under multifaceted with \$1.5 million being appropriated.

CHAIRMAN BISHOP:

That is a big hit on the multifaceted. We just did the Sagtikos Manor earlier. On that one there was no other eligible funding source for that type of purchase. This has the 70-30 program.

MS. COSTIGAN:

This is farmland component rather than the open space component.

CHAIRMAN BISHOP:

I don't understand.

LEGISLATOR CARACCILOLO:

While it qualifies in multifaceted because it meets one of the components of multifaceted –

CHAIRMAN BISHOP:

Right.

LEGISLATOR CARACCILOLO:

I think the Chairman's point is you have a finite amount of money, \$14 million, and this would

absorb \$1.5 million.

CHAIRMAN BISHOP:

Right. And there are other ways to do this is my point. It is not that I am opposed to it, but that there are better ways to do it. And obviously the reason he pulled it out of there was because he can't get the town to support it.

LEGISLATOR CARACCILO:

Right. And one of the other ways to do this, Tom, would be to recommend to the sponsor that he do it under the County's own Farmland Preservation Program as opposed –

CHAIRMAN BISHOP:

Even better.

LEGISLATOR CARACCILO:

Right. But –

MR. BURKE:

We have prior approval, actually, for the 100% farmland program – capital program. The other things is maybe to do a multifaceted 50% land preservation partnership.

CHAIRMAN BISHOP:

If he is approved for 100% under the Farmland Program, why would he come back and say I want to be approved under the multifaceted program? Motion to table.

LEGISLATOR CARACCILO:

I will make a motion to table and I will speak to the sponsor and suggest –

CHAIRMAN BISHOP:

Good thing I ask some questions around here. **(Vote: 5/0/0/0)**

1169 Implementing Suffolk County Water Quality Protection and Restoration Program. Assigned to Environment, Land Acquisition & Planning. (Co. Exec.)

At long last. Mr. Shannon.

MR. SHANNON:

Good evening, Mr. Chairman, members of the committee.

CHAIRMAN BISHOP:

Good evening. Welcome to the longest committee in America. Last time we met this resolution was tabled. We had some conversations since then. I think that I asked you to come back because in our conversations it seemed that your department is ready, willing and able to do this work and is eager to do it, and I think that your department is the right place for it because most of the work that is going to come out of this program is – relates to drainage improvements and, you know, it is the type of roadwork.

MR. SHANNON:

I think that, Legislator Bishop, as you recollect, when we discussed the program I indicated to you that our department and specifically my division is in the process of evolving in terms of the

type of projects that we do and the type of treatment that we have with regard to storm water runoff on our roadway projects. And I discussed with my staff the Clean Water Bond Act and how our approach has changed with the Clean Water Bond Act and how the addition of staff has allowed us to make significant progress with just the addition of a young engineer who has experience in the private sector and is trained in waste water management and in that type of science.

He is working full-time on the Clean Water Bond Act and we have made quite a bit of progress. We recently completed two projects in the field. We have five under construction. There are three more projects that we intend to put out within the next month. We are awaiting the acquisition of property so that we can commence with some of the larger projects out on the North Fork.

This gives us an opportunity – no one knows the highway drainage system better than we do, and we know where all those direct discharges are. We know the pipe networks that lead to them, and we think that we are the right department to manage this program.

I don't claim to know every portion of the science as Mrs. Fields indicates as wetlands restoration on other portions of the project, but we will be relying heavily on the committee that we are going to establish and we are going to have to use their knowledge and begin our own increase in knowledge and our own database as we go on and manage these programs. I think we can do a good job. I would prevail until the committee to support us and let us demonstrate to you that we have this ability.

As indicated previously, it is going to be our intention to add three technical engineering type positions and three – a drafter, a clerical type position, to help us manage the paperwork. There is a great deal of administrative tasking here. The compilation, the call for projections, the evaluation of projects, minutes to the meetings, things of that is a big portion of it as well as just the preparation of environmental permits through the DEC and where necessary other agencies. So we feel that with that addition of staff we will be able to make an impact and do this project.

The project, as you know, there is a force, there is a desire. The department gets it that the Legislature has sponsored this and we feel that it is time to put this into practice. There are small projects that we are hearing about, a location here, a location there, organic stickers, things of that nature, that, you know, we need to quantify the process, evaluate the projects, and then be able to come back to the Legislature and say this was our project call, these are the projects we are looking at, these are the ones we've approved, do you agree. That is where we stand and we are hoping for your support, and I will take questions.

LEGISLATOR FIELDS:

I think if a department is going to run a program, they should know how to run the whole program. They should know the intent of what the resolution was produced for, and as you just stated, you are going to learn from the committee. I don't want you to learn from the committee. I want you to know how to do wetland management. What I would be very concerned about, and we had a meeting six months ago with – Tom Isles was there –

CHAIRMAN BISHOP:

What department would know everything? You have to put in some department.

LEGISLATOR FIELDS:

Just a second. Let me finish, okay? Where we had a meeting talking about wetland restoration

and some projects that we could actually begin according to recommendations from the Peconic Estuary Plan and South Shore Estuary Plan. It is not only about storm water runoff or highway drainage. And although you are probably the best person to run that particular aspect of it, then perhaps you should run that aspect of it, and instead of DPW taking the whole thing and running it, you should run that part and someone else should run another part, the environmental part. What does DPW know about the environmental portion of this and what you would have to do? And no one agrees more that we should be implementing this. This is what I spoke with Tom Isles about and the complaint was then that he had nobody in his department to run it, you know, run the program.

But before we just have anybody run it, and I don't mean anybody in a derogatory way and I am not – this is in no way to be construed as being disrespectful toward your department. I just don't know that this is the right fix, this is the right – you know, it is like taking an orthopedic surgeon and saying okay, I want you to do cardiac surgery. You are a doctor, you can kind of – I am not sure that this is the right direct and I think, you know – I am not convinced that this is the right department to run it. Or if you are going to run it, then I would feel much better that you take Vito Minei with you and say okay, the two of you are going to run it. Something like that. But I am just not – I am not happy with DPW only looking at storm water runoff and highway drainage, because that is not what this program was meant to do.

MR. SHANNON:

I agree with you, Mrs. Fields. I don't think that that would be our full emphasis. The way I envision this program is that we would as part of preparing the rules and regulations we would put together a rating and ranking sheet for each project, and each sponsor or each agency that wanted to do a project and use these resources would be required to prepare the plan and prepare the rating and ranking sheets so that we could evaluate it. This way we would be comparing – I mean, how do we compare a wetlands restoration program with a pesticide control with a storm water drainage project. We need some sort of central rating and ranking system where the committee could sit down and evaluate these programs and then make a determination based on what the general consensus of the committee, what was the number one ranking, two, three, four, and continue down the line until we –

LEGISLATOR FIELDS:

What happens if someone puts in 50 projects and they are all highway projects and no one has put in any wetland restoration projects. They you are going to rank all of these, you are going to do all the highway drainage and storm water runoff and use all the money up for that when it wasn't intended to use all the money up for that. It is kind of like purchasing land and we just decide well, we are only going to purchase farmland and the heck with wetlands and open space. Do you know what I am saying? Does anybody feel –

LEGISLATOR CRECCA:

The way you are saying it is that you want it in like several different County departments.

LEGISLATOR FIELDS:

That is not what I said. I said I would rather have one department run it that knows how to run the whole department.

LEGISLATOR CRECCA:

Well, no department knows how to run the whole thing.

LEGISLATOR FIELDS:

Not just stick it that and you know let's let the chips fall where they may.

LEGISLATOR CRECCA:

I will respond if you want.

LEGISLATOR FIELDS:

No, I don't. I'm only kidding.

MR. SHANNON:

Mrs. Fields, I don't know if this will persuade your feelings, but one of the things that we've done is what you could do in the process of establishing the rating and ranking of the criteria. If the committee decided that under all of the different types of projects that are outlined in the local law you could set aside funding for that particular say wetland restoration. And if there was no candidates for that particular fund, that money would hold there until such time as a project did come through.

LEGISLATOR FIELDS:

Who is going to nominate the candidates? Who is going to put forth the projects?

MR. SHANNON:

As we – I would think we would put out a call letter to all the various agencies that would take part in this, similar to what we did when the Planning Department put their original document together. They put a call letter out to various – the Parks Department, Public Works, there were several others – Soil and Water Conservation was also tapped. That way everyone is made aware that the program is up and running and we are seeking applications. At that point you rate and rank those projects that you feel are the most important depending on the dollars and cents that you have. It is sort of similar to what we did on a regional level with the federal aid program where you have Suffolk, Nassau, New York State DOT and the Long Island Rail Road competing for funding.

LEGISLATOR FIELDS:

Do you do agricultural non-point source abatement and control?

MR. SHANNON:

No, I do not.

LEGISLATOR FIELDS:

Do you do aquatic habitat restoration?

MR. SHANNON:

We've incorporated habitat construction in our recharge basins similar to what we did on County Road 16 near Lake Ronkonkoma where we storm water discharging into a wetlands area which we created through the –

LEGISLATOR FIELDS:

But that is not aquatic habitat restoration.

MR. SHANNON:

No, but –

LEGISLATOR FIELDS:

But that was my question, do you do that.

MR. SHANNON:

We do not do that.

LEGISLATOR FIELDS:

So these are probably the most important parts of the program that I feel.

CHAIRMAN BISHOP:

Can I ask how are you going to implement when you don't have the particular expertise?

MR. ISLES:

I would just like to add the Planning Department did a recommendation on this for the Legislature and we presented it last year and we identified that this is an interdisciplinary matter, it crosses the board in terms of different departments and so forth. What we had recommended is that as Bill has explained, a solicitation occur to get projects legislatively, through the Executive, from the different departments, from the towns and villages, a process to review and rank those, and then everything has to come to the Legislature for final approval. So, we can't take the money and put it all into a highway program. Everything would have to come through you. So, we had spend quite a bit of time and I give credit to {Dewitt Davies} and {Lauretta Fisher} in analyzing how this thing could best be put together.

So I think we did provide for that and I think the other point to remember on this is that this project is a \$90 million program over 13 years. It is going to require of administrative horsepower to run this thing in terms of bidding specifications, contract management, inspections, certifications and so forth. So, there is a lot of nuts of bolts whether it is going to be a wetlands restoration or any other highway program. It is all going to need a certain amount of management. In my opinion, at least Public Works has the backup with the additional staff that Bill spoke of to do that.

LEGISLATOR FIELDS:

Couldn't we have hired staff in another department?

MR. ISLES:

They are geared up to do contract management right now.

LEGISLATOR CRECCA:

That is what I was going to say. I mean, the Department of Public Works, this is exactly the type of things that they do in the sense of –

LEGISLATOR FIELDS:

He just said they don't do that.

LEGISLATOR CRECCA:

If I could just finish, Legislator Fields. I listened to you, if you can just listen to me. I am talking about administering a program like this or administering this type of management. You know, that is what they do. They oversee public work projects. It is not all bricks and mortar. They do all sorts of projects, environmental projects including dredgings, things like that. There may be some things that it is new ground for them here, but they are certainly the most suited department to handle this \$90 million project and to manage it in a way that benefits the County.

LEGISLATOR FIELDS:

Who would do that, then?

LEGISLATOR CRECCA:

Public Works.

LEGISLATOR FIELDS:

No. Since he has never done that before, who would do that?

MR. SHANNON:

If necessary -- I certainly wouldn't try to put an engineering aide say who has worked in the Highway Division and put them out on an aquatic restoration. What I would do is look to see what consultant services we may have to use to do the inspection to insure that a contractor is doing the work correctly. I would not try to put the round peg in a square hole. I would get someone who could help us out with that.

LEGISLATOR CRECCA:

Mr. Minei, did you want to add anything to that?

CHAIRMAN BISHOP:

Michael, are you ready or can we vote?

LEGISLATOR CARACCILO:

I am almost ready. I did want to hear from Mr. Minei just what role with the Division of Environmental Quality play in this project.

MR. MINEI:

Thank you. Ginny, I think the comfort level has to be gained by again leaning on some of the points Tom has made. It is really this structure that I think is the beauty of the whole process. No one feels stronger about the elements you've touched on that went into the law. We were instrumental in getting that information to the Legislature. I think the power that what you are seeing is really a committee that I think that will be collegial in nature but bringing different disciplines to the table. You have Cornell Cooperative Extension and we've worked on them with scallop restoration and wetlands restoration program. You have Soil and Water. We've worked on farmland non-point source. Certainly we in the Department of Health Services will bring all the planning that came from all of the estuary programs to the table, but please don't consider what Tom just said about the horsepower of DPW.

At the end of this, through the selection process, the power that is in this committee structure and having DPW as the lead is to get the thing implemented and that's been the concern of a lot of planning processes, that we have great recommendations and we can't get the things off square one. We have now with the leadership of DPW and this committee structure the contracting capability, the expedition on getting these projects underway. I think that is where

the power lies. And we are totally comfortable with this process with DPW.

LEGISLATOR CARACCILO:

Vito, what role do you see or do you see a role in this project and these various components, particularly that dealing with water quality around the bays because obviously the PEP is a major component of this for Cornell and the marine science program at Cornell in particular.

MR. MINEI:

I see major support functions from – I am anticipating our Office of Ecology out in Riverhead to be our participants in this group, and obviously we'll provide any monitoring backup that is solicited. We will bring in and try to work with the overall ranking process. We've done this with planning and with DPW. We've done these situations where you give equal weight to different types of projects. I think, again, the power of this and something we are very interested in, and you don't get it in a lot of the environmental – the State Environmental Bond Act, is it is so heavily weighted to mitigation and not to preservation. So, it is going to take some work by all the committee members to make sure those kinds of elements are brought in to the review process. And again, I think with the cross section you have, the membership you have, I think that is where you should be looking, not does DPW have all the expertise or does Planning have all the expertise and they are the agency to run it. I think we are talking about the final implementation of the recommendations and I think –

LEGISLATOR CARACCILO:

I know this is very near and dear to the Chairman as it probably is to everybody on this committee and probably in the Legislature as well as the Executive. What would be a reasonable amount of time for this program to get up and running where we could actually start identifying? Do we have a preliminary list of projects that we could undertake immediately, or do we have to wait a certain period of time before we can –

MR. MINEI:

There are projects recommended that were appended as examples, both from Parks and from DPW. It is a good start. We also have rating types of forms that we can draw on right away with projects. But the point is the membership will get this project up and running. Cornell has several projects I'm sure they would like to lay on the table. I know Soil and Water would have projects as well. We have a lot of suggestions on different kinds of projects. You already approved the Peconic River Health and Environmental Assessment under the ¼% and we thank you for that. But, again, I think when you talk about getting this up and running, it is the membership that should give you the comfort level. And Tom's final point is we go nowhere until approval of the projects selected comes back to this group. I think there should be a lot of assurances built into the process.

CHAIRMAN BISHOP:

Can we move this?

LEGISLATOR FIELDS:

Before we move it I want to feel very comfortable, that's all. It is not like I am just – that the bill came before me and I am just hearing all this news for the first time. This is stuff I have been working on for years and I need to feel comfortable. The other part of the discomfort that I had was when I put in resolutions to have DPW look for extra funding and I was told by Charlie Bartha that they were five years behind in their projects. So, now all of a sudden they come to us and say okay, well, we are going to implement. And I am thinking well, if you couldn't implement stuff before, what makes you think you can do it now. And you are telling me that you are hiring

how many?

MR. SHANNON:

We are looking to hire three technical engineers, civil engineering aide, clerk typist and –

LEGISLATOR FIELDS:

What about somebody that would be kind of an environmental technical aide rather than just –

MR. SHANNON:

Well, what I would look to do for this particular position I would be looking for a college graduate civil engineer with an emphasis on (inaudible). I will advertise.

LEGISLATOR FIELDS:

I feel better.

MR. MINEI:

I think, too, you have to remember that you are calling on the staff's of all the agencies represented on the committee. And I don't think just hearing this for the first time from Bill that requesting six people in a \$95 million program is not, you know, irregular because I am thinking that our friends at the State DEC had at least four people overseeing just the element of a State Bond Act that went to the estuaries here and that was about a \$30 million project. So, six people for a \$100 million project doesn't sound out of the order.

CHAIRMAN BISHOP:

Motion to approve by Legislator Fields, second by Legislator Caracciolo. All in favor? Opposed? The resolution is approved unanimously. **(Vote: 5/0/0/0)**. Thank you. I am glad we are all comfortable.

1173 approving the reappointment of William Cremers as a member of the Suffolk County Planning Commission, representing the Town of Southold. Assigned to Environment, Land Acquisition & Planning. (Co. Exec.)

This is Mr. Cremers who was previously tabled. Motion to table by Legislator Fields, second by myself. All in favor? Opposed?

LEGISLATOR CRECCA:

I'm sorry. These were the ones that we had tabled because they are members of the town? Opposed to 1173 and opposed to 1175. **(Vote: 4/1/0/0 Opposed: Legislator Crecca)**

CHAIRMAN BISHOP:

There was one other one – I don't see him on the list.

1175 Approving the reappointment of Frank A. Tantone as a member of the Suffolk County Planning Commission, representing the Town of Islip. Assigned to Environment, Land Acquisition & Planning. (Co. Exec.)

Motion to table by Legislator Fields. Second by Legislator Cooper. All in favor? Opposed?

LEGISLATOR CRECCA:

Opposed.

CHAIRMAN BISHOP:

Four to one. **(Vote: 4/1/0/0 Opposed: Legislator Crecca)**

1185 Authorizing planning steps for acquisition of open space under Suffolk County Multifaceted Land Preservation Program (property at Portion Road Corridor, Lake Ronkonkoma/Ronkonkoma, Town of Brookhaven. Assigned to Environment, Land Acquisition & Planning. (Caracappa)

This is one that we previously – did you speak to Legislator Caracappa about this one?

MR. ISLES:

This is a parcel we had done a ranking on for open space. It is a previously disturbed site. It is relatively small. It has no environmental attributes in terms of wetlands or streams or anything like that on it. So, we didn't see any – you know, if you want us to take further action by contacting the sponsor, I will be happy to do that.

LEGISLATOR FIELDS:

Motion to table.

LEGISLATOR CRECCA:

I would just ask that you do contact the sponsor and see if he wants to withdraw and I will second Legislator Fields motion to table, please.

CHAIRMAN BISHOP:

Okay. Motion to table having been made and seconded, all in favor? Opposed? Okay. **(Vote: 5/0/0/0)**

1188 Authorizing planning steps for acquisition of open space under Suffolk County Multifaceted Land Preservation Program (property of Mastic Beach Fire District) Town of Brookhaven. Assigned to Environment, Land Acquisition & Planning. (Towle)

This one got a zero also as I recall. Motion to table subject to call by myself, second by Legislator –

LEGISLATOR CRECCA:

Did you talk to the sponsor yet? Can we just table it and talk to the sponsor at least?

MR. ISLES:

No, I have not spoken to the sponsor. If you would like me to contact him, I will be happy to.

LEGISLATOR CRECCA:

I would appreciate that, Tom, just before we take it off the agenda. **(Vote: 5/0/0/0)**

CHAIRMAN BISHOP:

Nolan we previously did. Jarvis we previously did. Bush we previously did.

1240 Amending the 2002 Operating Budget and restoring fifty percent of the funding for Cornell Cooperative Extension's Marine Science Program. Assigned to Environment, Land Acquisition & Planning. (Caracciolo)

LEGISLATOR CARACCILOLO:

Motion to table.

CHAIRMAN BISHOP:

Motion to table by Legislator Caracciolo, second by myself. All in favor? Opposed? **(Vote: 5/0/0/0)**

TABLED PROCEDURAL MOTION

3-2002 Procedural motion to retain independent appraisal review services for County land transactions. Assigned to Environment, Land Acquisition & Planning. (Bishop)

That is for the County Legislature to have not on staff but on call a retainer – like a certified appraiser. So, for example, if you wanted to question the Shadmoor property there would be somebody in our shop who could – okay. We used to have this position, by the way.

LEGISLATOR CRECCA:

Is this person paid by when they are actually directed to do or –

CHAIRMAN BISHOP:

Right. They are only paid as we use them.

LEGISLATOR CRECCA:

What authorization is there to use them? Can any Legislator use them or do we have to –

CHAIRMAN BISHOP:

That would be this committee. It would be this committee would retain them, and if I have it correctly, who would authorize this person to act, Paul? My intention was this committee. Is that what I conveyed to you?

MS. COSTIGAN:

Would this person be on the list or have to be on the list? Would we have to get his credentials and that sort of thing?

CHAIRMAN BISHOP:

We'll have all that criteria, but it wouldn't be on your list. We wouldn't want him on your list. He is your check. Or she is your check.

MR. SABATINO:

There were two components to it, if you recall. One was to evaluate specific parcels. The second component was to be available on an as needed basis. But the contract would be with the Legislature. How the assignment would be done would have to be worked out. Obviously this would be the primary committee, but Ways and Means would have some involvement because there are appraisals used at Ways and Means.

LEGISLATOR CRECCA:

This says, unless it has been amended, it says that the Presiding Officer will execute the agreements for such appraisal evaluation program?

MR. SABATINO:

That's correct.

LEGISLATOR CRECCA:

Okay. And then it is authorizing up to \$100,000.

CHAIRMAN BISHOP:

Up to, but it doesn't mean you are going to –

LEGISLATOR CRECCA:

I know.

CHAIRMAN BISHOP:

It is not go out and bill us for 100 grand.

LEGISLATOR FIELDS:

Motion to table.

LEGISLATOR CRECCA:

I would second the motion to table. It is not that – conceptually I understand this, but we can also have the authority to do this as we need it.

CHAIRMAN BISHOP:

How would we –

LEGISLATOR CRECCA:

By doing a procedural motion if there was a problem with an appraisal. We just put a load of or are in the process of putting a load of revisions in, things that are put in this checks and balances to safeguard. If there is a problem within a particular appraisal or we are not happy, we know it is coming back before us, we can look at it. We always have the authority to go authorize monies out of the 456 account, either – with the Presiding Officer or by procedural motion without him.

CHAIRMAN BISHOP:

This is from the 456 account, which we have not even gone into about 25% with, and it would be money well spent as we choose to lose them. It is not a blanket authorization, it is not a person on staff, it is just an authorization to have this person available and we will use them as we see fit. I am a little tired and run down, but that's the best that I can do at this hour. I make a motion to approve.

MS. COSTIGAN:

I would just point out it won't be reviewed, then.

CHAIRMAN BISHOP:

All in favor?

LEGISLATOR FIELDS:

Motion to table.

CHAIRMAN BISHOP:

Motion to table takes precedent.

LEGISLATOR CRECCA:

Second the motion to table.

CHAIRMAN BISHOP:

All in favor of tabling? Opposed? I'm opposed. Motion to approve. All in favor? Opposed?

LEGISLATOR CRECCA:

I'll abstain.

CHAIRMAN BISHOP:

Three – zero – two. **(Vote: 3/0/2/0 Abstain: Legislators Fields and Crecca)**

That concludes our agenda.

LEGISLATOR COOPER:

Not so fast.

CHAIRMAN BISHOP:

Normandy Manor. We haven't approved the method, though. Can we do it by the method that we haven't approved yet?

MR. ISLES:

We do have a resolution authorizing acquisition of this property under the capital program approved by the Legislature. We do have an appraisal. We have that appraisal reviewed. We have an agreement on price. The appraisal review came in at \$85,000 less than the amount agreed – agreed upon amount for the acquisition.

I understand that we are in a transition with the procedures and so forth. The only point is that there is a time element here where the property owner has indicated patience and we appreciate that very much. However, we may run out of time. And not to put that as a threat, and as Councilman – pardon me, as Legislator – sorry, it is getting late – indicated sometimes we are put to the gun and unnecessarily so. However, this is a parcel, as we heard earlier, that has a true uniqueness to it and that we wanted to bring this to do in the sense that time may be at the expense of this acquisition. If that is something that you want to live with that is fine, but we just wanted to make sure you are aware of where we are.

LEGISLATOR CRECCA:

Counsel, couldn't we – can't we – they already are authorized to acquire it. Can't we do a procedural motion for Tuesday's meeting that directs the Division of Planning and Real Estate to move forward with the acquisition authorizing up to \$90,000 or however we draft it, over the appraised value of the property?

MR. ISLES:

We are within the appraised value. Less than the appraised value, actually. The appraisal review came in a little lower, that's all.

LEGISLATOR CRECCA:

So, then why don't we just, especially it is an appraisal review and the appraisal is ready, can we just do a procedural motion that gives them some legislative authority or approval so that they're – that is what you are looking for, right? I mean, you could go out and do the acquisition, correct? You have the authority to do it at this point, correct?

MR. ISLES:

There is a resolution authorizing the acquisition.

LEGISLATOR CRECCA:

Right.

MR. SABATINO:

They are looking for an authorizing to go \$85,000 above the review appraiser's –

LEGISLATOR CRECCA:

The appraisal review.

MR. ISLES:

Right, and 15,000 below the appraised value. And I'll point out, too, we did go back to the appraiser with the appraisal review –

MR. SABATINO:

That's 85,000 above the review appraiser's determination which – okay. Your internal procedures haven't eliminated the – a comment was made earlier in the debate that the new procedures at the office were going to eliminate that review process, but that has not occurred yet. So then it would be a procedural motion on the floor of the Legislature at the next meeting, but you have to lay on the record the facts, the numbers, and then the approval will be for \$85,000 above that number.

LEGISLATOR FIELDS:

Remember we talked about that before, about maybe –

MS. COSTIGAN:

The appraisal review did speak to the appraisal and to the discrepancies between the two. They are points on which reasonable minds can differ. A substantial one of the points was the time that it would take to have a subdivision approved in Huntington. This is only a three lot subdivision when you look at the highest invest use of the property. This is not a major multi-subdivision. Some people would think a minor subdivision only takes a short time and they have been accomplished in months. The review appraiser would take years, or over a year, almost two years, and then took the time value of money and that's where the difference came in largely.

LEGISLATOR FIELDS:

There's exactly what we were talking about. I forget the terminology that Dick Amper said, the rational.

MR. SABATINO:

It is a going to be a procedural motion on the record. It is going to have to be verbalized because I don't know what – for example, the name of the appraiser, the outside appraiser, the facts.

LEGISLATOR FIELDS:

The rationale.

MR. SABATINO:

That just has to be laid out. But we can do it on the floor. We'll pick a time during the day. I mean, I will defer to the Presiding Officer's staff on where they want to schedule it, but there will be someplace on the agenda where we can deal with it.

CHAIRMAN BISHOP:

Do we need to do anything as a committee?

LEGISLATOR CRECCA:

Do we need to do it writing or no, Paul? You are saying no?

MR. SABATINO:

Well, to me it would a procedural motion on the record.

CHAIRMAN BISHOP:

We're done?

LEGISLATOR CRECCA:

We're done.

CHAIRMAN BISHOP:

Motion to adjourn.

LEGISLATOR CARACCIOLO:

Second.

(The meeting was adjourned at 7:55 p.m.)